



Tapui Taimoana

Reviewing the Marine Reserves Act 1971



Summary of Submissions

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for the **Department of Conservation**

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Executive Summary

1 *Introduction - Who Submitted?*

- ✦ In September 2000 the Department of Conservation released a Discussion Document “*Tapui Taimoana: Reviewing the Marine Reserves Act 1971*”, which reviewed the way in which marine reserves are established and managed. It proposed options for possible changes and included questions on which the Department particularly sought comments.
- ✦ The final number of submissions summarised and analysed in this report is 255, plus four late submissions. Overall, approximately 50% of the respondents were iwi or organisations and 50% were individuals. About 72% of all respondents were from the North Island, with most submissions from Northland, Auckland, Bay of Plenty, East Coast/Hawke’s Bay and Waikato.
- ✦ All submissions were categorised into 10 broad categories, as follows:

Source Type	Number	% Total
Maori (Iwi, hapu, Runanga)	19	7%
Environmental NGOs	39	15%
Other NGOs	6	2%
Central & Local Government	20	8%
Conservation Boards & Marine Reserve Committees	16	6%
Commercial fishing	13	5%
Non-commercial fishing	6	2%
Other non-extractive interests	7	3%
Research and academic	2	1%
Individual	127	50%
Total	255	100

2 Use of Marine Reserves as a Management Tool

- ✦ There was widespread support for broadening the focus of the present MRA, particularly for an increased focus on the protection of the biodiversity in New Zealand’s marine environment as a common heritage for all New Zealanders and for future generations. There was also widespread support for the protection of a widespread representative range of New Zealand’s marine environment in marine reserves. There was widespread support for marine reserves to complement the current network of reserves on land, and for the integration of terrestrial and marine reserves. There was also considerable support for marine reserves to provide for include scientific study and for the principle of free public access to marine reserves as on land reserves. Many submissions supported the goal in the New Zealand Biodiversity Strategy of protecting 10% of New Zealand’s marine environment by 2010.

- ✦ There was general support for the inclusion of marine historic heritage as one component of the marine environment that warrants protection under a changed Marine Reserves Act. However, there was less support the establishment of marine reserves *specifically* for the protection of marine historic heritage.

- ✦ There was also significant opposition to the above sets of views. While several respondents were not opposed to the concept of marine reserves as such, they wanted a more focused approach to marine reserves, and more integration with other marine management and protection tools.

- ✦ About two thirds of all submissions were in favour of reserves being essentially “no-take” (no fishing or harvesting). Many respondents argued for the widest possible extent and scope of marine reserves, and a strict interpretation of “no-take” throughout all protected areas. There was however widespread support among other submitters for retaining some degree of flexibility or discretion to allow fishing in at least some marine reserves under various forms of control. According to several submitters, this flexibility could take several forms. Some proposed a “core of protection” concept, under which there would be a strict no-take zone at the core of a protected area, but with “buffer areas” around or adjacent to this core area in which customary or recreational fishing could take place. There was also an argument proposed by several submitters for a “protection and take” regime for marine reserves, in which fishing would be allowed, either for customary or recreational purposes.

3 The Recognition of Treaty of Waitangi Principles

- ✦ There was general support for the Marine Reserves Act to be amended to require regard to be given to the principles of the Treaty of Waitangi in the process of establishing and managing marine reserves. Maori authorities expressed strong support for Treaty principles to be put into the Act, referring to the rights guaranteed under Article 2 of the Treaty, as well as to the principle of partnership between the Crown and tangata whenua. The inclusion of Treaty principles was also generally supported by submissions from conservation boards, local government and environmental NGOs. Several individual and fishing interests opposed such an inclusion primarily on the basis that there was sufficient recognition under existing mechanisms (such as section 4 of the Conservation Act).

- ✦ There was some support for defining tangata whenua for the purposes of consultation, with some iwi submissions proposing a definition of that whanau, hapu or iwi who have mana whenua and mana moana over a particular area of land or sea.

- ✦ There was widespread support, among Maori and non-Maori submitters, for consultation with tangata whenua to occur as part of the preparation of applications for marine reserves. There was less clarity among submissions about whether further consultation with tangata whenua should occur when a marine reserve application has been notified, although some asserted that Crown have quite separate and distinct responsibilities to consult with Maori as Treaty partners when an application is notified. Few submitters directly addressed hearings, although some suggested having iwi representation on any hearings panel.

- ✦ In terms of making decisions on marine reserve applications, while there was general support from those who responded for the effects of a proposed marine reserve on the customs and traditional rights of tangata whenua to be a decision-making criterion, there was a divergence in views about the predominance of such criterion over other factors.

- ✦ In terms of the management of marine reserves, while there was concordance among most of the submitters that responded to this issue that tangata whenua should have some form of active involvement in management, views varied as to how this should occur, ranging from the right to be represented on a committee, through to tangata whenua managing marine reserves. Many supported some form of partnership and joint decision-making with tangata whenua.

- ✦ There was a polarity of views about customary fishing rights within marine reserves. Many individual and fishing interest groups opposed this approach, while Maori, government and non-government groups generally supported some form of provision for customary fishing, although several suggested special areas be set aside for customary

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harvesting. For tangata whenua, the issue was often tied to the need to ensure rights under Article 2 of the Treaty of Waitangi are duly recognised and provided for. To those opposed, any fishing was perceived as being contrary to the purpose of marine reserves.

4 *Marine Reserves as a Marine Management Tool*

- ✦ Approximately 100 submissions made comments responded to this issue and most of these generally supported the proposal to co-ordinate marine reserves with other marine management tools. There was some support for a hierarchical approach to the protection of the marine environment, in which various methods would be used to provide a comprehensive system of protection but which could also enable a wide range of uses as appropriate. Under this approach, the Marine Reserves Act would provide the most powerful form of marine reserve management, representing the ‘pinnacle’ of marine protection. The most common opposing view was that marine reserves could be made more flexible to allow for different uses or different approaches within marine reserves.
- ✦ Many submissions from organisations noted the overlap of this review with other reviews currently under way. In particular, several submitters considered that the review of the Marine Reserves Act should await the outcomes of at least the first phases of the Oceans Policy review.
- ✦ Submissions that advocated partially protected reserve areas integrated with the use of traditional management tools generally supported integration and linkages between marine reserves and fisheries legislation. In contrast, those advocating fully protected no-take marine reserves opposed integration on the grounds that marine reserves should not serve as a fisheries management tool.
- ✦ With regard to co-ordination with traditional marine management mechanisms, most submitters on this matter generally supported an increased emphasis and greater use of traditional marine management tools. Many of the iwi submissions considered that the use of existing marine management tools under the Maori Fisheries Act and the Treaty of Waitangi Fisheries Settlement Act represents a superior management model to the current marine reserves system. Several other submissions considered that marine reserves (as ‘no-take’ protection mechanisms) be kept distinctly separate from any traditional arrangements for marine management and noted that the Fisheries Act already provides for varying levels of cultural and local management.
- ✦ There was widespread support and a large number of specific suggestions for linkages between marine reserves and District and Regional planning tools under the Resource Management Act, especially Regional Coastal Plans. Many advocated a statutory link between marine reserves and the functions of local authorities, for example: the

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integration of marine reserves with those areas identified within Regional Coastal plans as significant areas requiring protection; the application of specific land use regulations prescribed within District and Regional Plans to marine reserve areas; using Regional Policy Statements as a vehicle for establishing regional priorities for marine protection; and the establishment of a national or regional framework with the purpose of co-ordinating a network of reserves on a national or regional basis.

- ✘ With regard to conservation tools, most submitters on this matter supported the integration of the Marine Reserves Act with environment protection systems on land. A common viewpoint was that ecological connections between the land and the sea should be maintained through a common framework and consistent processes and mechanisms for protection of both land and marine protected areas.

5 *The Process for Establishing Marine Reserves*

- ✘ There was clear support for the removal of any specification about who can apply to create a marine reserve, with many submitters relating this with widening the purpose of marine reserves to include values and benefits other than scientific study. Most submitters urged less focus on ‘who can apply’, and more emphasis on the quality of applications. Hence, there was considerable support in favour of the Act specifying information to be included in an application, as well as ensuring quality consultation procedures, quality information and quality assessments of environmental effects within applications. While several supported DoC having a screening role over the quality of applications, others expressed concern over the level of power DoC holds.
- ✘ There was strong support for improving the ability of tangata whenua, local communities and other stakeholders to contribute to the decision-making process through consultation processes. Several submitters’ proposals included: having consultation processes follow those prescribed under the Resource Management Act; setting up firm consultation guidelines under the MRA; keeping accurate records and evidence of any consultation; and resourcing individuals and interest groups in the consultation process. However, several submitters considered that provision for consultation under the status quo is sufficient.
- ✘ There was considerable support for allowing submissions in support to be made for marine reserve applications, as well as for the option for the Minister to conduct hearings when evaluating applications, in addition to, or instead of receiving written submissions.
- ✘ Several submissions expressed concern with DoC functioning in some cases as both applicant for marine reserve proposals in addition to its role in providing advice to the Minister. These submitters contended that in such cases it is important to make provision for independent analyses, evaluation and advice.

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- ✦ In general, there was strong support for a review of the criteria by which the Minister considers objections, establishes clear guidelines and decision-making criteria, and establishes appropriate timeframes. Maori authorities were clearly in favour of giving weight and priority to tangata whenua values and rights. Several submitters advocated a hierarchical approach to balancing different interests, where long-term national considerations (such as ecological, biological, conservation, and indigenous biodiversity) should take priority. Conversely, others advocated a hierarchy whereby individual local or community interests should have precedence over national interests. Further viewpoints included a more flexible approach to recognise differing interests and views depending on the local context of the proposed marine reserve area, while several specifically advocated structures and processes under the MRA to be consistent with those prescribed under the RMA.

- ✦ While several submitters questioned the concurrence role of the Ministry of Fisheries in the process, commercial fishing interests strongly argued for the retention and clarification of this role. On the other hand, conservation boards and environmental NGOs advocated that the Minister of Conservation should have full responsibility for establishing marine reserves.

- ✦ With regard to impacts of marine reserves on commercial fishers, several iwi submissions and commercial fishing interests provided clear support of the need to compensate commercial fishers adversely affected by the establishment of marine reserves. Opposition was received from several conservation boards, marine reserve committees and environmental NGOs primarily on the grounds that the effects on commercial fishing are secondary to preserving biodiversity and should not be considered when establishing reserves.

- ✦ Approximately 90 submissions supported the extension or prescription of specific timeframes. Maori authorities generally advocated a flexible approach that would allow sufficient time for Iwi to be properly consulted, and to allow Iwi to consult amongst themselves. The timeframes recommended in various submissions were to allow between 2-6 months for formal submission process, between 2-6 months for applicant to respond to objections, and no more than 6 months between the end of the submissions and the Ministers decision. Several submissions advocated the MRA to include similar timeframes and processes as for notified resource consent applications prescribed under the RMA. Although there was little opposition to proposals of timeframes, several submitters were of the view that the current timeframes are sufficient and that the provision of specific timeframes would increase pressure on local DoC conservancies.

6 *The Management of Marine Reserves*

- ✦ More than 100 submissions made comments in relation to the management of marine reserves. Most of these submissions supported the concept of reserve committees. There was approximately equal support for committees to be set up directly under the Marine Reserves Act and for such committees to be set up under conservation boards. Fair representation of interest groups on committees was seen as an important issue, as well as providing a framework for tangata whenua involvement. The use of regional marine reserves management committees was an option favoured by some.

- ✦ Views on the roles of reserve committees in decision-making varied, according to whether submitters felt committees should be autonomous (in which case the committee should be limited to policy and overview management) or serving a body like a conservation board (in which case the committee should carry out day-to-day operational management). There was widespread support for committees having a significant role in developing management plans – either through input to their preparation and review, or holding an ultimate power of approval – as well as acting an advisory role to DoC or the Minister of Conservation. Several submitters also supported reserve committees having active functions such as monitoring, education and promotion, advocacy, public liaison, enforcement, and organising scientific research.

- ✦ Views were divided on the relationship between reserve committees and Conservation Boards. Submitters supporting the continuance of the present relationship considered it important to preserve the coherence of conservation strategies and an integrated approach to land/sea management, as well as the accountability under the existing system. Submitters supporting autonomous committees viewed conservation boards as being not well known or land-based, and that an autonomous role would better provide for a partnership with tangata whenua. There was some support for Conservation Board members and DoC officers to have a role on committees regardless of the relationship. Co-ordination and information sharing was seen as important.

- ✦ There was widespread support for protecting full public access rights to marine reserves. The right for all New Zealanders to enjoyment and recreation in New Zealand’s marine environment was advanced as an important purpose for marine reserves. However, a need was seen by some to have the ability to restrict access if needed to protect fragile or over-used areas, or to allow scientific research.

- ✦ On the issue of concessions in marine reserves, the majority of submitters on this issue favoured concessions. The benefits of concessions were cited as controlling use, aiding public awareness, assisting in honorary ranger roles, and the generation of revenue. However, concessions were widely seen as conditional on reserve values coming first. Those who opposed concessions had the view that they would put marine reserves

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under pressure, encourage DoC to have more marine reserves to generate income, or would increase the likelihood that compensation claims may arise.

- ✦ The need for rigorous enforcement was widely accepted by submitters. Several respondents advocated heavier penalties and rigorous policing, with wider ranger powers. Many sought regular review of penalties and enforcement powers, and for consistent rules between marine reserves and other conservation statutes.
- ✦ Many submitters thought that reviewing the status of marine reserves should be very difficult. Regular reviews were generally favoured, but mainly to check on progress and fix problems rather than with the option of changing reserve status. There were mixed views on changing reserve status: several thought that reserve status should be sacrosanct; others thought that reserve status could be revoked in certain circumstances.

1 Introduction

1.1 Background

The Marine Reserves Act 1971 (MRA) is the Act under which marine reserves are established and managed in New Zealand. The Government is reviewing the Marine Reserves Act to ensure that it remains relevant and effective in the light of changes in how we value, use and manage our marine environment. The NZ Biodiversity Strategy also called for a review of the Marine Reserves Act to better provide for the protection of our marine biodiversity.

In September 2000, the Department of Conservation released a Discussion Document *Tapui Taimoana: Reviewing the Marine Reserves Act 1971*. This discussion paper looked at the way, in which marine reserves are established and managed, proposed options for possible changes to the Act and included questions on which the Department particularly sought responses.

The period for receiving submissions on the Discussion Document was originally 22 December 2000, but was later extended until 19 February 2001, at which time 255 submissions had been received. Four late submissions were accepted up to mid-March 2001, raising the final total number of submissions summarised and analysed in this report (excluding duplicates) to 259. Details of each submission are given in Appendix 1, listed alphabetically and numerically.

1.2 Methodology

Boffa Miskell Ltd, an environmental consultancy firm, was contracted by the Department to prepare a summary of the submissions. All submissions received were summarised onto an Access database. Information from each submission was summarised according to demographic data, responses to the questions directly asked in the Discussion Document, responses to options for possible changes outlined in the Discussion Document, and to any additional information.

This database provided the basic information for this report, supplemented by quotations and references back to the submissions themselves.

Some quantitative information on proportions of the total number of submissions expressing particular viewpoints is presented, particularly for questions that enabled a Yes/No response to be recorded in the summary. More frequently, a qualitative assessment of the strength of response to particular issues is given by using the

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phrases: ‘a few’ (generally less than five submissions); ‘several’ (generally between 5-25 submissions); and ‘many’ (generally greater than 25 submissions and representing more than 10% of the total). However, no attempt has been made to analyse the statistical significance of quantitative information. This would have been misleading and not useful considering the relatively small number of submissions received. Also some indication is given of the categories of respondents (see Chapter 2) responding to issues in particular ways. Many issues covered in the Discussion Document as well as in submissions were not easily quantifiable. Hence the main emphasis of this analysis is to provide a summary of the main points of view and themes of submitters’ responses to each question, elaborated by information on responses to options, and then, where possible, to provide an indication of the respondent categories most typically associated with the main points of view.

1.3 Structure of Report

The report begins with an analysis of the submissions in terms of demographic characteristics of the respondents. This is followed by an analysis structured around the five key topic areas that were presented in the Discussion Document, which were based on the following five objectives presented on pages 8-11 of the Discussion Document:

Objective 1: Purpose

Change the purpose of the Marine Reserves Act to protecting and presenting marine areas for all New Zealanders and for future generations.

Objective 2: Treaty Issues

Ensure that the ways in which marine reserves are established and managed recognises the Crown’s obligations under the principles of the Treaty of Waitangi.

Objective 3: Linkage

Identify ways by which the Marine Reserves Act and other marine management tools can be made to complement each other and achieve better results for the marine environment.

Objective 4: (Application process)

Streamline the process for establishing reserves so that it is simpler and more efficient while ensuring all community and stakeholder views can be expressed and appropriate account is taken of existing use rights.

Objective 5: (Management)

Streamline and improve the way in which tangata whenua, local communities and stakeholders have a say in how marine reserves are managed.

1.4 Marine Reserves Act Review Process

Several comments were made about the MRA review process and the Discussion Document. Many of these comments were supportive of the MRA, although for different reasons.

Several respondents commended the Department of Conservation on the preparation of the Discussion Document and praised the content and clarity of the Document. These comments tended to come from submitters who strongly supported marine reserves and wanted to see a rapid expansion in their scope (see Chapter 3). Conversely, several Maori submissions saw the discussion Document as having a monocultural view and not addressing the needs of Maori.

- Some other critical comments were made by Maori organisations, that:
- The Discussion Document had been sent to all interested parties, rather than being discussed with the Crown’s Treaty Partners first;
- There was a lack of resources for Maori to participate in the review process;
- Issues about marine reserves of concern to Maori will not be resolved until the Crown agrees to a forum for the negotiation of fundamental sovereignty issues.

1.4.1 The MRA Review and the Oceans Policy process

The Discussion Document (p7) discussed a distinction between the MRA review and the development of overarching national policy for marine management (generally referred to as the Oceans Policy). Nevertheless, this distinction was strongly criticised by several submitters, in particular the NZ Seafood Industry Council criticised the perceived narrow scope of the Review and argued that it was:

Taking place in advance of, and therefore in isolation of, the Oceans Policy project. [And] absence of a well-reasoned, coherent policy framework for marine protection... The Review therefore risks perpetuating the very problems that the Ocean Policy process was set up in response to – i.e. fragmented, inconsistent legislation without overarching policy goals (167).

SeaFIC went on to propose that “the outcomes of the current consultation process be fed into the Ocean Policy work and that any reforms to the Marine Reserves Act be progressed as part of Phase 2 of the Oceans Policy project.”

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Part of the above argument was endorsed by Maori organisations, but from the point of view the nature and extent of tangata whenua rights need to be more broadly defined in relation to fisheries:

Given the growing Crown recognition of these rights ...it is difficult to understand why this review is taking place before the overarching national policy for the marine environment has been completed ...any final amendment to the MRA should be completed after the national strategy has been agreed. (100)

A local authority noted that there were at least three discussion Documents that overlap with this discussion Document and there appears to be little co-ordination between them. (163) The perceived narrow scope and timing of the Review was also criticised by a few conservation organisations, notably the Auckland Conservation Board:

This tension [conserving the marine environment while also satisfying fishing needs and giving effect to the principles of the Treaty of Waitangi] means that obtaining community support and buy-in is an essential first step. The Board is not convinced that this has been achieved in the consultative round or that it should in fact proceed in advance of the development of national policy for marine management which addresses wider issues and conflicts. (221)

Several submissions referred to the recent investigation by the Parliamentary Commissioner for the Environment that recommended the development of a strategy for the sustainable management of New Zealand's marine environment.

On the other hand several submitters welcomed the Oceans Policy review but were also comfortable that the current MRA review is proceeding now, arguing that the MRA needs revision, regardless of the outcome of the Oceans Policy Review (for example, 273).

2 Profile of Submissions

2.1 Number of Submissions

A total of 282 submissions on the Department of Conservation's Discussion Document "*Tapui Taimoana: Reviewing the Marine Reserves Act 1971*" were received. Of these 282 submissions, 23 were duplicate submissions or attachments to submissions, and four were received following the close of the submission period. The total number of submissions analysed was 255. Of these 255 submissions, 128 (approximately 50%) were submitted by organisations and 127 (approximately 50%) submitted by individuals. Included within the latter group were eight joint-individual submissions and two family submissions. The four late submissions have not been analysed as part of the following demographic profile although points made in the submissions were incorporated into the overall summary.

All of the respondents were adult and resident in New Zealand. The submissions addressed a range of questions and issues, with the large majority of respondents following the structure set by the Department's *Tapui Taimoana* Discussion Document, particularly with regard to 'Questions 1-14'. A considerably smaller number of respondents only addressed one or several of the key questions or issues presented within the Document.

Submissions ranged greatly in scope and in length, from a couple of paragraphs up to 30 pages long. Several submissions presented detailed scientific arguments supported by multiple references, both setting out reasons for establishing marine reserves and critiques of the current approach to marine reserves in New Zealand. Several submissions presented detailed legal arguments supporting viewpoints about aspects of marine management legislation. Several submitters asked for a further opportunity to present or discuss their submission in person.

A feature of submissions to the *Tapui Taimoana* Discussion Document was that there were no "form" responses prepared by organisations for their members in order to present large numbers of submissions in support of a particular viewpoint. This was in contrast to some other recent submissions processes for other marine management issues, notably the 60 000 submissions sent to the Ministry of Fisheries in response to the *Soundings* Discussion Document on recreational fishing issues. One submission to the current Discussion Document (No.264) was prepared by Option4.co.nz, the same recreational fishing umbrella group (supported by 20 recreational fishing clubs and organisations) that was instrumental in the large response to the *Soundings* Discussion Document. Several submissions prepared by commercial fishing organisations specifically referred to and endorsed a

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comprehensive submission prepared by the New Zealand Seafood Industry Council Ltd (No.167).

Many submissions from both individuals and organisations were made from the perspective of having advocated for or against a specific marine reserve proposal in the past. Therefore there are a large number of detailed comments within submissions that refer specifically to one marine reserve or marine area.

A list of all submissions is contained in Appendix 1. Each has been allocated a reference number that may be used to identify the source of a particular observation or comment cited within this report. The profile of respondents by ‘Organisation’ and by ‘Individual’ submissions is presented in Sections 2.2 and 2.3 to follow.

2.2 Geographical Distribution of Submissions

Table 1 presents the number and proportion of submissions representing each of 13 regions within New Zealand. These regions reflect the 13 regional conservancies administered by the Department of Conservation.

Overall, the Auckland, Wellington, Nelson/Marlborough, Northland and East Coast/Hawke's Bay regions represented the highest proportion of respondents with 20%, 16%, 10%, 9% and 9% of total submissions respectively. It is noted that the Wellington region had 20% of organisational submissions but only 12% of individual submissions. This reflects the presence of a high number of Wellington-based New Zealand organisations.

Conversely, Canterbury, West Coast, Southland and Tongariro/Taupo regions represented the lowest proportion of respondents, each having less than 5% of total submissions. Otago, Waikato, Wanganui, Bay of Plenty and East Coast/Hawke's Bay regions each represented between 5% and 9% of all submissions.

A strong geographic bias of respondents exists between the North and South Islands, with 72% of all respondents sourced from the North Island and 25% from the South Island. These values roughly correspond to the North Island: South Island population ratio. Notably, the north of the North Island (Northland, Auckland, Bay of Plenty, East Coast/Hawke's Bay and Waikato) represents 46% of all submissions received.

The geographic source for seven of the individual submitters was not able to be determined. These respondents are included within the ‘not specified’ category.

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Table 1: Submitters by Regional Source – Total, Organisation and Individual

Region	Total		Organisation		Individual	
	No.	%	No.	%	No.	%
Northland	24	9%	11	9%	13	10%
Auckland	50	20%	26	20%	24	19%
Waikato	13	5%	5	4%	8	6%
Wanganui	12	5%	7	5%	5	4%
Bay of Plenty	20	8%	8	6%	12	9%
East Coast/Hawke's Bay	24	9%	11	9%	13	10%
Tongariro/Taupo	1	<1%	1	<1%	0	0
Wellington	41	16%	26	20%	15	12%
Nelson/Marlborough	26	10%	13	10%	13	10%
Canterbury	10	4%	7	5%	3	2%
Otago	13	5%	7	5%	6	5%
Southland	4	2%	3	2%	1	<1%
West Coast	10	4%	3	2%	7	6%
Not specified	7	3%	0	0	7	6%
Total	255		128		127	

2.3 Profile of Individual Submitters

Six demographic categories reflect the general profile of individual submitters. Table 2 presents these categories and their respective proportions of respondents, along with a breakdown of individual submitters by gender.

2.3.1 Gender

Of the 127 individual respondents, 58% were male and 20% were female. The gender statuses for the remaining 28 individual respondents could not be specified for the following reasons: 1) 17 submissions where there was insufficient detail regarding gender status; 2) 8 joint-individual submissions; and 3) there were two family submissions. These respondents have been categorised as 'non-specified' in Table 2.

2.3.2 Maori

Only 4 individual respondents acknowledged themselves as Maori, representing 3% of all individual respondents. These respondents identified relationship with Ngati

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Wai Pakiri, Ngai Tai Ki Tamaki, Te Hiku O Te Ika and, Te O Murihiku. No other ethnicities or cultures were acknowledged in any of the remaining individual submissions.

Table 2: Profile of Individual Submitters

Source Type	Number	% Total		
Non-specified individual	109	86%		
Academic Affiliation	7	6%		
Environmental Group Affiliation	1	<1%		
Other non-extractive interests	3	2%		
Non-commercial fishing	3	2%		
Maori	4	3%		
Total	127	100		
	Gender	Number	% Individual	% Total
	Male	74	58%	29%
	Female	25	20%	10%
	Non specified	28	22%	11%
	Total	127	100%	100%

2.3.3 Interest Groups

Of the 127 individual respondents, 109 did not provide any demographic information regarding their use or interest of the marine area or their affiliation with a particular group. Accordingly, these individuals were categorised as ‘non-specified’ and represent 86% of all the individual respondents. This category was also accorded in cases where it was difficult to determine the primary interest group or viewpoint of an individual submission.

The remaining 18 individual submissions indicated an affiliation with a particular interest group or with a particular iwi. Accordingly, these individual respondents were categorised under the respective interest group categories presented in Table 2. These categories were only applicable to those individual submissions where a clear relationship with one interest group could be identified. The following describes the individual respondents as they relate to these categories.

Six percent of individual respondents identified an academic affiliation, ranging from a Fisheries Scientist to a Marine geologist, as well as those working for institutions, such as a university, a museum and a marine laboratory.

Summary of Submissions

Two percent of individual respondents were identified to have non-commercial fishing interests and a further 2% with non-extractive interests such as recreational diving, and snorkelling. One individual submitter was identified to have a strong affiliation with environmental groups.

It is noted that for the purposes of this report and subsequent analyses, each individual submitter is categorised by one general ‘individual’ category only although many cited other interests of involvement: for example, a Councillor who submitted as an individual but who expressed support for environmental issues.

2.4 Profile of Organisations Making Submissions

The 128 submissions from organisations were classified according to nine broad categories. Table 3 sets out the respective proportions of respondents according to these categories.

2.4.1 Maori

There were 15 submissions from iwi, hapu, Runanga, Trust Boards and marae committees. A further four submissions were received on behalf of reserve trusts for *Ngaruabinerangi registered tauranga waka reserves*, the *NZ Federation of United Seafood Interests*, the *Ngakau Kotahi Branch Maori Women’s Welfare League*, and *Te Ohu Kaimoana*. Together these submissions correspond to 15% of all organisational submissions received, and 7% of all submissions received. Additionally, there were late submissions from *Te Runanga o Ngati Whare Iwi Trust* and *Ngati Ranginui*.

2.4.2 Interest Groups

Forty-five of the 128 organisations were identified as Non-Governmental Organisations (NGOs), representing 35% of all the organisational submissions received. This category can be further broken down to reflect the interests of NGOs that are primarily environmental in focus compared to other non-governmental organisations. Thirty-nine NGOs were identified as environmental and advocacy groups, including the *Environmental and Conservation Organisation of New Zealand*, various branches of the Royal Forest and Bird Protection Society, and other environmental groups such as the *Wellington Botanical Society*, the *Cheltenham Beach Caretakers*, the *Save the Otago Peninsula*, the *Whangateau Harbour care Society* and the *Akaroa Harbour Marine Protection Society Association*. The remaining six NGOs were identified as ‘other’ and comprised three resident and ratepayers associations, the *National Council of Women*, the *Federated Mountain Clubs of New Zealand* and the *Tararua Tramping Club*.

Summary of Submissions**Table 3: Profile of Organisational Submitters**

Source Type	Number	% Total
Maori Organisation	19	15%
Environmental NGOs	39	30%
Other NGO	6	5%
Central & Local Government	20	15%
Conservation Boards & Marine Reserve Committees	16	13%
Commercial fishing	13	10%
Non-commercial fishing	6	5%
Other non-extractive interests	7	5%
Academic	2	2%
Total	128	100

Thirty-six organisational respondents were identified within the governance category, including 3 central government agencies, 17 Regional, City and District Councils, 12 Conservation Boards, three Marine Reserve Committees and one Taiapure Committee.

Ten percent of the organisational respondents represented commercial fishing interests, including local fishing groups: *West Coast Fishermen's Association*, *Whitianga and Coromandel Commercial Fishers Association*, *NZ Oyster Farmers' Association*, *New Zealand Aquaculture Council*, *Barn Bay Fishing Company*, *Gisborne Fisheries Ltd*, *Sanford Ltd* and the *NZ Marine Farming Association*. Submissions were also received from several of the major stakeholders in the New Zealand commercial fishing industry including the *CRA 8 Management Committee*, the *CRA 3 Industry Association* and the *Area 2 Inshore FinFish Company*, the *New Zealand Rock Lobster Industry Council* and, the *New Zealand Seafood Industry Council Ltd*.

Five percent of all organisational submissions represented the interests of non-commercial fishing; including three local recreational fishing organisations (*Akaroa Harbour Recreational Fishing Club*, *Nelson Underwater Club*, and *Bay of Islands Charter*

Summary of Submissions

Fishing Association), and three from wider recreational fishing interests (*New Zealand Recreational Fishermen’s Club, New Zealand Big Game Fishing Council, Option4.co.nz*).

Other non-extractive interests were reflected in 5% of the organisational submissions: *Fiordland Ecology Holidays, New Zealand Marine Transport Association Incorporated, Tourism Industry Association New Zealand, Deep and Meaningful Film Productions, Tennyson Inlet Boat Club, New Zealand Underwater Association, and Auckland Underwater Photographic Society*.

Only two organisational respondents identified within the academic category: *Geological Society of New Zealand* and the *New Zealand Marine Sciences Society*.

As with the individual respondent profile, for the purposes of this report and subsequent analyses, each organisation was classified according to one general category only. However, it is important to acknowledge that in several instances organisational respondents can be identified to represent more than one general category concurrently, for example:

- *New Zealand Federation of United Seafood Interests Inc* is an organisation representing various Iwi authorities along with their commercial and traditional fishing interests.
- *Guardians of Fiordland’s Fisheries Inc.* identify representation of Ngai Tahu, commercial and recreational fishing, charter operators and environmental research within its submission.

3 Purposes of Marine Reserves

3.1 Purposes and Principles of the MRA

Most submissions commented on this issue and made many recommendations on the purposes and principles of a revised Marine Reserves Act, from which some clear common themes emerged, as discussed below. However, only a few submissions made specific suggestions as to the exact wording of purposes and principles. As most submissions did not clearly differentiate between purposes and principles, they are dealt with together in this section.

3.1.1 How well is New Zealand Managing its Marine Environment?

Opinion about the purposes of marine reserves also revealed some general attitudes towards the marine environment and our management of it. These attitudes included:

Protection of marine environment through reserves

People whom strongly supported marine reserves and wanted to see them expand commonly expressed the view that reserves were a good method of protecting the marine environment. These submitters maintained that New Zealand had a poor record of managing the marine environment to date and felt that we needed to learn much more about it and then manage it according to a precautionary principle. These submitters pointed out that the total extent of protected marine areas was very low compared to protected areas of land (for example 105. 262). They felt that the marine reserves needed to be better protected, especially from the effects of commercial fishing, and better resourced to meet this function. They wanted to see a very active role for the Department of Conservation in marine protection, as well as close co-operation between Department of Conservation and Ministry of Fisheries. A few submissions suggested that we needed a less anthropogenic approach to the marine environment - *"I'm all for the fish on this one..."*

10% Goal

Many submissions referred to the New Zealand Biodiversity Strategy, mostly in connection with the Strategy's target of protecting 10% of New Zealand's marine environment by 2010. Many of the submissions that supported this 10% target also expressed support for the 'protect and preserve' principle of marine reserves. Submissions expressing this view most commonly came from individuals and environmental NGOs. For example:

Summary of Submissions

The New Zealand Biodiversity Strategy calls for greater marine protection,... [objective 3.6...]. We believe that Marine Reserves should be a major tool for helping to implement the NZ Biodiversity Strategy in marine areas. (76)

Most of the submissions that referred specifically to this target appeared to view marine reserves under the Marine Reserves Act as the principal, if not the only, mechanism of “establishing a network of protected marine areas”, as detailed in the NZ Biodiversity Strategy. Several submissions qualified the target to 10% of the coastal marine environment. A few submissions advocated a higher target than 10%, some as high as 50%, while one environmental NGO noted that some studies around the world provided details of proposed targets for marine reserves or non-fishing reserves, that have become increasingly ambitious, ranging up to 90% (273, p.18).

Several submissions opposed or expressed concern about an arbitrary target of 10% marine protection, and about the concept of “protection for the sake of it.” There was some concern from recreational fishers and commercial fishing organisations that protection of this portion of New Zealand’s marine environment would result in the closure of a much larger proportion of New Zealand’s coastline to recreational and /or commercial use (237). In some cases, this viewpoint was linked to advocacy of a greater emphasis on scientific study and the protection only of unique species or habitats in marine reserves (152).

One submission emphasised the need to “balance competing calls for different uses and protection of our seas”, and opposed changing the purpose of the Marine Reserves Act until these issues are addressed (209).

Several submitters (mainly environmental NGOs) highlighted the concept of a marine reserve network. This was both in physical geographic sense (national or regional networks of reserves that are located to maximise the biological interplay between them (76)) and in a management sense (a network of representative groups and interests including local and central government, iwi, community and education groups).

Need for community support, education and research

A view related to the above was that, in order to achieve better management and protection of the marine reserves, we needed to put much more effort into research, education and raising awareness about marine reserves. Submitters expressing this view pointed to our current lack of understanding of the complex marine environment.

Summary of Submissions

No need for marine reserves

In contrast to the above opinion was a view by other submitters that New Zealand did not need marine reserves, at least not new ones. Several of these responded that New Zealand already had a good integrated fisheries management system that enabled sustainable management of the marine environment. Other respondents (mainly fishermen) argued that New Zealand’s dynamic and stormy maritime climates ensured protection of the environment from over-fishing and that therefore formal reserves were unnecessary. Others were concerned that the establishment of marine reserves took away their right to a livelihood from fishing.

Several Iwi submissions argued against marine reserves because they were seen as unnecessary and inappropriate compared with traditional fisheries mechanisms and their modern implementation through fisheries and Treaty settlements legislation. These organisations argued that marine reserves took away Maori rights to both customary and commercial fishing through Article 2 of the Treaty of Waitangi (see Chapter 4).

3.1.2 Support for an Expanded Purpose of the Marine Reserves Act

A large number of submissions supported, in general terms, the proposal to “change the purpose of the Marine Reserves Act to protecting and preserving marine areas for all New Zealanders and for future generations” (as expressed in Objective 1, p.8, and discussed on pp.23-25 of the Discussion Paper). There was widespread support for the option of broadening the scope of the marine reserve from that of scientific study and very little support for retaining the current focus on scientific study as the purpose for the MRA:

The purpose of the MRA should be expanded so that marine reserve applications can be made for a range of reasons, and not for only scientific reasons. The key focus should be on the protection of biodiversity. (274)

A few submissions advocated removing scientific study from the criteria for protection, and many said there should be a variety of purposes for the MRA, while several suggested marine reserves should be able to be established for any reason.

Common themes and principles expressed in support of a broadening and strengthening of the Marine Reserves Act as a protection tool included the following:

Summary of Submissions

Protect and Preserve

Many submissions, from both individuals and organisations, used the words “protect and preserve” in their support for this concept to be the primary purpose of a revised MRA. Many additionally used the term “in their natural state”, as expressed in the current wording of the purpose of the MRA. Protection and preservation of the biodiversity of marine reserves was also commonly advocated (see 3.2.1).

I agree that the MRA’s purpose should be to protect and preserve marine areas for ALL New Zealanders and for future generations. Protecting 10% of NZ’s coastal waters as no-take marine reserves would be a good start. (7)

...protect and preserve marine biodiversity for the heritage of all New Zealanders and for future generations. Marine biodiversity is interpreted as protecting both rare and common species in their natural habitat, and the natural, biological and physical processes that support them. This should also be included in the purpose. (134)

Common heritage

Many submissions advocated protecting and preserving marine reserves as “common heritage” for all New Zealanders, including future generations.

The MRA should be applicable to any area that can be demonstrated to be ‘heritage’ to all New Zealanders. (196)

Provide for flexibility and multiple use

There was considerable support for flexible marine reserve provisions that allowed different purposes and multiple benefits and uses, including low-impact extractive use. (see section 3.4.2).

Ngati Toa believes that the same...objectives [conservation-based aims of the Review] could be achieved while still allowing flexibility in the Act, which would maintain Ngati Toa’s rights of kaitiakitanga and rangatiratanga over its coastline (270)

Access and enjoyment

There was considerable support for the principle of allowing access to all, for recreation, tourism and enjoyment, provided it has low impact. For example:

The public should continue to have [free] access to marine reserves with certain constraints as they do on land reserves. Passive low impact activities...should continue to be allowed in most marine reserves. (212)

Summary of Submissions

Several of these submissions drew attention to the need for temporary closure of public access to marine reserves for specified purposes such as research, or for recognition of the rights of adjacent landowners regarding the protection of land adjacent to the marine reserve (134).

Integration with Land Protection

Finally, several submissions advocated greater integration of the purposes of marine reserves with those of land-based protection, especially under the Reserves Act. Some of these submissions (e.g. 274) advocated aligning the purposes of a revised Marine Reserves Act with those of the Reserves Act (s3). This was seen to be especially important in coastal areas where marine reserves or proposed marine reserves were adjoining protected land areas. For example:

The Act should focus on the “full range” of species, natural habitats and ecosystems...One implication of such a focus is that a marine reserve may need to include a component above MHWs which may facilitate riparian management, access management, management in...eroding beaches, incorporation of low...banks in reserves, and protection of the integrity of reserves through the ‘precinct’ idea. (215)

Several submitters highlighted the need for having a clearly understood series of different marine reserve types, similar to that of land-based reserves: for instance, nature, scientific, and recreational reserves and national and marine parks (11). It was felt that this would reduce potential confusion between different rules for different types or purposes of reserve, provided that the names / types reflected the reserve purposes. Having a hierarchy similar to that of land-based reserves (for example, nationally significant reserves) would also help public understanding.

One submitter suggested that primary and secondary purposes of reserves should be set, with the primary purpose being the over-riding one (103).

3.1.3 Opposing an Expanded Purpose for the Marine Reserves Act

Notwithstanding the above, a significant number of submissions had different views about the purpose and principles of the Marine Reserves Act from that expressed in Option 1 of the Discussion Document. These views were not necessarily opposing marine reserves or a widened scope for the Marine Reserves Act (although some were), but were not generally supportive of the “protect and preserve” view of marine reserves, and were generally opposed to, or at least less supportive of changing or broadening the principles of the Marine Reserves Act. Some themes expressing these different views were as follows:

Summary of Submissions

Sustainability

There was considerable support in general terms for the principle of sustainability as a purpose of marine reserves. This principle was advocated in conjunction with a number of viewpoints.

Equal rights

Several respondents advocated a principle of “equal rights for all New Zealanders”. This equated in some cases to equal representation of all stakeholders including community representatives in decision-making about marine reserves, and recognition of the rights and values of other stakeholders.

Traditional management/conservation system

A significant number of submissions from Maori organisations and individuals advocated more emphasis on traditional principles of customary use and management, such as rahui, kaitiakitanga, and taiapure in the management of New Zealand’s marine environment. In the view of several respondents, this could be complemented by marine reserves, but in other cases it would lead to less requirement for marine reserves. Some of these submissions, while acknowledging the need for protection of some parts of the marine environment, pointed out that rahui could fulfil this function. In some cases this was linked to fundamental concerns about justice to tangata whenua, recognition of the principles or the article about the Treaty of Waitangi, and a concern that the desire for more marine reserves should not be used to create a new set of injustices for Maori. These points are discussed in more detail in Chapter 4.

Property rights

A small number of submissions emphasised, in general terms, the need to respect existing property rights and uses of the marine environment (see 6.3.2 for further discussion in respect of compensation issues).

3.1.4 Specific comments on principles

The NZ Conservation Authority (239) proposed 14 principles, covering Governance, Protection and Preservation, and Sustainable Use. Other Conservation Boards (for example, 221) have endorsed these principles. Although they appear to apply to the marine environment generally rather than specifically for marine reserves, that these principles could be used for the development of criteria for the revised MRA.

Summary of Submissions

A further set of scientific principles for fully protected marine reserves developed by Dr B. Ballantine (197) was referred to in several individual submissions. These principles covered the general aim and concept of reserves, principles for each reserve, principles for sets of reserves, and principles for the system, principles of benefit and implementation.

3.2 What Components of Marine Environment should the Marine Reserves Act Focus on?

This section looks in more detail at the specific possible components of the marine environment that could be included in the scope of a revised Marine Reserves Act.

3.2.1 Biodiversity

By far the largest number of those submissions that referred to specific options for inclusion in a MRA, referred to the protection of biodiversity as a core purpose of marine reserves: 161 submissions (63%) referred specifically to the protection of marine biodiversity, of which only one opposed its inclusion. Support for the protection of marine biodiversity came from across all categories. Many submissions that did not specifically mention the term ‘biodiversity’ nevertheless recognised the need for protection of marine life. For example:

‘We support the notion that there are parts of the marine environment and species that live within, that require protection...’ [100].

Several respondents felt that marine reserves should only be used to protect unique species or environments, and that the onus should be on the proponent to justify the need for protection. Some of the submissions advocating greater use of customary management mechanisms acknowledged that marine reserves may be the appropriate situation in some situations, such as where customary fishing never has or no longer takes place where the need to protect an endangered species or environment cannot be achieved by any other means, and where the hapu and iwi give consent.

A few submissions provided further details of which elements of biodiversity should be the focus for marine protection, generally supporting an ecosystem level of focus:

‘The appropriate focus for the MRA is at the “ecosystems and habitats” end of the spectrum. This does not mean that marine reserves cannot also protect genetic diversity or individual species or populations...(167)

Summary of Submissions

Many submissions advocated the protection of a “representative range” of marine habitats and ecosystems in marine reserves. Many of these submissions referred to an ecosystem basis for reservation; others advocated for a ‘continuum’ of ecosystems or habitats to be protected.

We would like the MRA to cover the full range of habitats and ecosystems, i.e. including typical or representative areas, as well as protecting rare or unique species. (17)

One submission advocating the preservation of outstanding natural marine areas suggested that the purposes of the Marine Reserves Act should mirror section 6 of the Resource Management Act. It suggested that it might be necessary to classify a principal purpose of each reserve and to manage or protect secondary features to the extent that are compatible with the primary purpose (103).

3.2.2 Other purposes

A few submitters were of the opinion that, for those areas requiring protection for reasons and purposes other than marine environment conservation and protection, existing agencies and legislation provide specific protection for these areas.

Other options for protection discussed in the Discussion Document included:

- Kohanga (nursery)
- Natural, scenic or geological features;
- Marine historic heritage; and
- Areas in their natural state where marine life and processes can be studied.

Kohanga (nursery)

Several submissions commented on the importance of protected marine areas to act as kohanga or nursery areas (see p22 of the Discussion Document) for the regeneration of fish stocks. A few such submissions (for example, 273) provided literature references in support of these claims. Most of these submissions were from Maori organisations, which also supported the use of traditional fisheries management tools such as rahui to provide for kohanga, rather than marine reserves under the MRA. For example:

Rahui in its widest concept allowed for the protection of stock to enable regeneration and therefore protected the sustainability of the resource. (241)

Summary of Submissions

Natural, Scenic or Geological Features

These options were mentioned by a much smaller number of respondents (just under 30% referring to any of the three options) than the protection of biodiversity. There was a fairly similar pattern of response to these options. Specific opposition to the inclusion of these criteria was strongest from commercial fishers, with the most common reason given being that the MRA should not be a “catch-all” for all types of marine protection.

...it is neither reasonable nor appropriate to simply expand the purpose of the Marine Reserves Act to fill all the legislative “gaps” that currently exist...The distinguishing feature of the MRA is that it provides for a very high level of protection from all controllable sources of risk. ...its purpose should remain focused on management objectives that require a very high level of protection from all sources of risk. (167)

Of those that specifically responded to the option for the protection of natural, scenic or geological features, far more respondents supported than opposed the inclusion of this criterion. Specific support was scattered across all categories except commercial fishers, but most strongly from local government agencies and environmental NGOs. One environmental NGO submission (274) suggested that s20 of the Reserves Act would provide a suitable model for the protection of special values in marine reserves.

Marine Historic Heritage

This criterion attracted a greater response than the other criteria (about 100 submissions or 39% of respondents) probably as it was the subject of a specific question (Question 3), as well as being a specific option set out in the Summary of Options in the Discussion Document.

Overall, there was considerably more support than opposition to the inclusion of marine historic heritage into the ambit of marine reserves’ purposes. Eighty-two respondents expressed support for marine historic heritage to be one of the options for inclusion by protection under a changed MRA, while only 19 respondents specifically opposed this option. However, in response to Question 3, in which it was asked ‘*Is it necessary to allow marine reserves to be set up to protect marine historic heritage?*’, fewer people supported this proposition directly. Fifty-eight respondents agreed with the question and 25 opposed it. In other words, there appeared to be greater support for *inclusion* of marine historic heritage in the reasons for protecting marine reserves than for the *establishment of marine reserves specifically* for the protection of marine historic heritage.

Summary of Submissions

Support for the inclusion of marine historic heritage came from all categories of respondents, including almost all conservation boards that responded to the question or option, and a majority of local authorities and Maori organisations. Twelve environmental NGOs supported the proposition, seven opposed it.

Marine historic heritage includes Maori cultural heritage...we believe it is imperative for marine historic heritage to be included in the MRA. (103)

The Board agreed that the protection of marine historic heritage should be one of the purposes of a marine reserve... Definition or criteria of marine historic heritage may be required along with an awareness campaign about the nature and significance of marine historic heritage.(221)

The Historic Places Trust (240) provided several arguments in favour of the inclusion of historic marine heritage to strengthen the protection available for such heritage, and also suggested that further attention should be paid to the interaction between the MRA and the Historic Places Act.

Specific opposition to the inclusion of marine historic heritage also came from all categories of respondents. Most respondents who opposed the inclusion of marine historic heritage felt either that historic heritage was already adequately catered for under the Historic Places Act (or could be under an amended one), or that a marine biodiversity focus of marine reserves should not be “diluted” by other purposes including marine historic heritage.

The ARC believes that sufficient protection of marine heritage in the coastal marine area is already provided by our own existing responsibilities, and does not need to be protected through the establishment of marine reserves. (101)

Several respondents who opposed inclusion nevertheless recognised that marine reserves had a benefit or potential benefit of protecting areas of historical significance. Several submissions from Maori organisations argued that the purposes of a new MRA should recognise and provide for the cultural, spiritual, historic and traditional association of tangata whenua with their ancestral fishing grounds, water, sites, waahi tapu and other taonga.

Several respondents advocating a more flexible approach to the categories of marine protection (see section 3.1.2) accepted the inclusion of marine historic heritage values among the components of New Zealand’s natural environment that could be protected, but generally these respondents argued that marine historic heritage components were of lower priority than biodiversity protection, or could be included in areas that had a lower degree of protection than “core” marine reserves.

Summary of Submissions

Yes. But it should be a no take reserve if it is to be called a Marine reserve. If it is not, then it should be called a heritage reserve and not count towards the 10% goal. (219)

Several of the proponents of an approach analogous to different categories of reserve on land pointed out the purposes of the Reserves Act 1977 (s 3 (a)) includes reference to historic values.

Areas in their natural state where marine life and processes can be studied

About 100 submissions from all categories specifically responded to this option. Almost all these submissions supported the inclusion of scientific study as a purpose of marine reserves, only four opposing its inclusion. Many submissions discussed the value of marine reserves for research and the value of that research. Although there was strong support for widening the purposes of marine reserves beyond those of research (see above), a common theme was that research within marine reserves should be permitted and encouraged.

...Scientific study should not be a specific purpose for establishing a marine reserve, but neither should it be prohibited ...provided that the study does not have an adverse affect on biodiversity in the reserve. (167)

The submission from the NZ Marine Sciences Society (218) largely concentrated on this aspect, providing a detailed “defence of scientific study as a major focal point for marine reserves” by “ensuring that some habitats remained available in a natural condition for study” of the marine environment and to provide environmental baselines. The Society advocated active encouragement of research to take place in marine reserves.

The submission from NIWA (282) argued strongly that scientific research continue to be a major purpose of the MRA, for the reasons that:

- Experience in New Zealand and overseas has shown that it is becoming increasingly difficult for scientists to undertake research within protected environments;
- Burdensome processes for permitting of research activities, and the incompatibility of some other uses of the reserve can be a major disincentive for scientists to pursue research questions that are of relevance to marine reserve protection and management;

NIWA advocated that if the focus for the establishment of marine reserves from is changed from scientific study to areas that are of special significance (in terms of

Summary of Submissions

their biodiversity, and having rare, endangered or fragile species) the MRA must also be robust enough to be used to protect a proportion of the marine environment representative of large areas that may well have relatively low biodiversity and no rare, endangered or fragile species.

Another submission from a fisheries scientist provided a further, somewhat contrasting, perspective on the present MRA focus on research:

Marine reserves are not intrinsically of value to science as such...Some scientific studies will only be possible in areas such as marine reserves and some [e.g. that concerned with exploitation of natural areas] will be impossible in such areas. So reserves are not universally “good” for science (78)

A few submissions specifically included Mātauranga Māori in their discussions of study of marine life and processes. For example:

There need to be an acceptance by “Pakeha” Science that traditional Maori practices and knowledge are based on generations of practice, observations and survival. Therefore Maori knowledge of areas seen to be “scientific” is equally relevant to much of the research that is carried out. (241)

3.3 How should ‘Marine Life’ be Defined?

About 70 submissions addressed this question. Of those responding, most supported, in general terms, widening the concept and definition of marine life from that in the present MRA. Support was expressed in a number of ways, such as including “all wildlife species”, “all marine species”, “all indigenous marine species”, or specific groups of biota such as marine mammals, birds, corals, and micro-organisms, etc.

The definition...needs to be broadened to include all marine species including the ‘wildlife’ species currently excluded, but also marine micro-organisms. (235)

Several submissions (e.g. 167) advocated adopting the definition used in the Fisheries Act¹, in the interests of consistency.

¹ “Aquatic life” in the Fisheries Act (a) means any species of plant or animal life that, at any stage in its life history, must inhabit water, whether living or dead; and (b) includes seabirds (whether or not in the aquatic environment).

Summary of Submissions

Several submissions supported an ecosystem or habitat focus. In some cases the respondent specified that there should be a focus on ecosystems and habitats rather than single species (e.g. 167), but in most cases these submitters did not specify what an ecosystem or habitat approach meant in terms of the definition of marine life. A couple of submissions supported a wider definition of marine life but suggested that specific exclusions may be required for control or eradication of pest species (e.g. 65)

Of the small number of submissions not supporting a “wider” definition than presently used, the main option suggested was retaining the definition as in the present MRA. No detailed arguments to support this view were presented.

3.4 What should be the Geographical Scope of the MRA?

Just under half of the submissions addressed this question. Of these, a large majority (about 90%) supported some extension of the jurisdiction of the MRA. The general categories of respondent that advocated broadening the scope of the MRA were conservation boards, environmental NGOs, and individuals. Most submissions supporting an extension specified either the Economic Exclusion Zone (EEZ) or, more generally, anywhere where New Zealand had “jurisdiction” or “a responsibility”, but many also supported an extension to the edge of the continental shelf.

Many submissions supporting a larger geographical scope for the MRA mentioned the need for marine reserves to be representative of all marine environments, including those in the deep sea. A number specified seamounts as areas requiring protection.

Some referred to the need to protect deep-sea environments from the negative impacts of bottom trawling (for example, 12). A few submissions nominated specific areas requiring protection under the MRA, principally the seas around New Zealand’s sub-Antarctic islands and the Ross Sea. Several submissions provided general or specific comments about principles for the development of a representative network of marine reserves, such as representing all marine habitats or a series of small reserves at regular intervals around the entire coastline.

Several submissions advocating a broader geographical scope quoted the experience of other countries (for example, 196, citing USA and Canada) or the requirements of international agreements such as the Noumea Convention, Agenda 21, UNCLOS and the Convention on Biological Diversity (for example, 274) in support of their position. One submission (265) advocated stronger links to the Territorial Sea, Contiguous Sea and Exclusive Economic Zone Act 1977 so that regulations could be made or at least advocated by Marine Reserve Committees.

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A few submissions advocated a “landward” extension of the jurisdiction of the MRA to include inland seas and/or all parts of the coastal environment, including some parts of the territorial coastal strip above mean high water level if there were special features requiring protection (for example, 79, 96, 132). More commonly, however, submissions advocated integration of coastal marine reserves with adjacent coastal land reserved under land protection legislation such as the Reserves Act.

Extend the Marine Reserves Act jurisdiction to include the entire coastal environment alongside a marine reserve so that there is a match with the Coastal Policy Statement. (96)

Most of the submissions that did not support an extension of geographical scope felt that the MRA was an unnecessary and inappropriate mechanism for protection in the larger marine area. The most detailed argument against an extension (167), which was specifically supported by several commercial fishing respondents, argued that:

- Other potential existing protection mechanisms that exist under the Fishing Act and Territorial Sea, Contiguous Sea and Exclusive Economic Zone Act were more appropriate in the EEZ;
- Difficulties of access and compliance in the EEZ made marine reserves in the EEZ unnecessary and ineffective; and
- The Crown’s jurisdiction in the EEZ was much more limited than in the Territorial Sea.

In relation to these arguments, a number of those submissions that supported an extended jurisdiction of the MRA, nevertheless qualified their support to the extent that could be adequately managed and/or policed, while the Maritime Safety Authority (14) noted that possibly more appropriate protection mechanisms outside the Territorial Sea were enabled by various International Maritime Organisation resolutions.

3.5 Should there be any Fishing Allowed in Marine Reserves?

A considerable number of submissions, approximately 80%, responded to this question in some form.

3.5.1 Take or No-take?

To give some indication of general attitudes to the concept of fishing in marine reserves, all responses to the relevant sections of submissions were analysed

Summary of Submissions

according to their responses to the questions “Should limited take ... be possible in marine reserves?” (Question 3) or, conversely “Should marine reserves be strictly ‘no-take?’” (Option discussed on p26). Of those submissions that responded to these issues, approximately 40% supported the concept of ‘strictly no-take’, approximately 40% supported the concept of ‘no-take’ but with flexibility to allow some take in some types or parts of marine reserves, while about 20% were in favour of take being more generally allowed in any marine reserve.

The above figures are very generalised and probably somewhat misleading. While there were a large number of submissions expressing a strict interpretation of no-take, and an equally large number supporting the option of retaining some degree of flexibility or discretion to allow fishing in marine reserves (thereby supporting *both* “non-take” *and* “flexible” approaches), it is possible to identify several interpretations of the concept of marine reserves within these responses. These are summarised as follows:

“Widespread protection”

This point of view argues for the widest possible extent and scope of marine reserves under the MRA, and a strict interpretation of “no-take” throughout all protected areas, (i.e. less support for a flexible approach). Support for this point of view was most widespread among individual submitters and several environmental NGOs.

Prohibit all fishing in marine reserves. To allow any form of fishing within marine reserves detracts from all the benefits they otherwise bring to the community. (92)

Marine Reserves should be ‘no take’ areas. There should be no commercial or non-commercial fishing...The Minister of Conservation should not be able to allow non-commercial fishing...(125)

Several submissions advocating this point of view argued that it was a fairer approach and was much easier to manage and enforce than a regime that allowed flexibility. Several of these submissions referred to the need for a uniform approach for all New Zealanders.

“Core of Protection”

This point of view argues for a strict no-take zone at the core of a protected area. Around, or adjacent to, this core area are “buffer areas” in which either customary or recreational fishing could take place.

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Several submitters suggested the use of buffer zones around marine reserves to protect the reserve area from adjacent activities that might be disturbing and to control commercial fishing in the immediate vicinity of marine reserves. It was also suggested that, while commercial fishers might be excluded from the buffer zone, recreational fishing should be permitted. The buffer areas could be either part of marine reserve under a revised MRA in which discretion for non-commercial fishing is retained, or managed under other management legislation, particularly those covering customary fishing mechanisms (e.g. Fisheries Act). Support for this point of view came from across all categories, particularly from conservation boards.

Promoting larger surrounding areas of restricted usage with a smaller nil extraction zone within its boundaries has proven to work well and gained acceptance by a very wide range of users. (77)

Keep zero interference as the core. There are other possibilities for adjoining areas, e.g. customary fishing for cultural purposes using traditional methods. (79)

“Hierarchy of Protection”

This point of view sees marine reserves under the MRA as being the highest form of protection in the marine environment. These reserves may, in some cases, be quite small, encompassing specific areas or features requiring high-level protection. Such reserves would be strictly “no-take”. However, other areas requiring some more limited form of protection would be managed under other legislation and mechanisms such as Fisheries Act customary fishing provisions. This point of view was argued in detail by the NZ Seafood Industry Council (167) and endorsed by several other submissions, but also advanced by several governmental organisations and other respondents:

The Board believes that a number of types or classes of marine reserves should be available. They would then cater for the various needs of the environment and the people who may need to access the resources. (265)

“Protection and Take”

This point of view argued for fishing to be allowed within marine reserves, either for customary or recreational purposes. Submissions arguing for this approach were predominantly from Maori organisations or non-commercial fishing organisations or individuals (see below).

The concept of marine reserves acting as a reservoir for fish populations also attracted a few comments: - approval of this concept; opposition to the concept and

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the feeling that it wouldn't work because there would be too much pressure on fish populations just outside the reserves areas; and the suggestion that there were probably better mechanisms to manage harvesting than that of reserve protection (25).

“Limited Harvest”

Several submissions suggested that there might instances where open seasons (even for as little as a day) could be declared to allow the taking of shellfish or fish as a management tool to control populations of these species. It was noted that this might have the added benefit of improving relationships with local communities and iwi (34). Seasonal licences that might specify yearly, monthly or daily conditions were also suggested (83). Recreational fishing was suggested as acceptable in marine reserves where the fish stocks were not the primary focus of protection.

3.5.2 Relationship between Customary, Commercial and Recreational Fishing

About 30 submissions specifically supported customary fishing and about 25 specifically supported recreational fishing in marine reserves. Arguments in favour of customary fishing included were advanced by many Maori organisations but also several other organisations, principally on the grounds of Treaty obligations, several submissions arguing that marine reserves closed off to customary fishing were a breach of Treaty rights:

Te Ohu Kai Moana believes that Maori customary fishing rights must have priority over the establishment of marine reserves...Maori customary fishing rights, along with Maori commercial rights, are Treaty rights and the Crown has an active duty to protect those rights. (207)

There was concern among Maori submitters that customary fishing rights and mechanisms recognised under the Fisheries Act and marine reserve provisions should not negate other post-settlement legislation. There was also concern by some of these organisations about adopting a single approach for all members of the community.

...the “fairness” of a “one out, all out” approach to harvesting access denotes a denial of rights and constitutes a breach of the Treaty. (251)

Arguments in favour of recreational fishing in marine reserves were also principally advanced on the grounds of heritage and rights. For example:

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No application to establish a new marine reserve, from whatever quarter or group should ever be considered if it in any way, would deter, hinder or prevent the right or our heritage to go fishing for a sport or food in any of our recognised fishing areas. (6)

Several submissions from recreational fishing organisations supported “no-take” reserves provided they were surrounded or adjoined by areas where recreational fishing was allowed, especially around offshore islands.

Several submissions from both individuals and organisations stated a preference, in principle, for “no-take” reserves, but acknowledged that allowing customary and/or recreational fishing would make acceptance of marine reserves easier or, in some cases, fairer. Most of these submissions advocated that strict limitations of time, species or extent of fishing should be enforced in such cases, either on a case-by-case basis or through rigorous criteria:

The Board supports the “No take” principle...Maori members...expressed concern that the rights of tangata whenua may not be recognised and protected if reserves are managed on that basis. The Board feels that there should be discretion for the minister to enable limited take to occur within individual reserves if negotiated with local communities...species taken and technique of removal needs to be specified and...need to be monitored by the management committee. (225)

Several submissions acknowledged that customary or recreational fishing may “not be incompatible” with marine reserves established for purposes other than biodiversity protection: such as for marine historic heritage, scenic or geological features protection (for example, 68, 185).

Fishing for other purposes in marine reserves was advocated in a small number of submissions, either for controlled research, or for commercial fishing, if such fishing did “not impact on the scientific study of unique species and habitat” (for example, 152).

4 Treaty of Waitangi Principles

4.1 The Crown/Iwi Relationship

4.1.1 General Comments

While the relationship between the Crown and tangata whenua in terms of marine reserves was addressed to some degree by many submitters, the level of detail varied considerably, as did the viewpoints.

All submissions from tangata whenua (which were primarily from Maori organisations) addressed the issue of Treaty principles and the Marine Reserves Act. The main focus of these submissions was on the issue of partnership and the rights guaranteed under Article 2 of the Treaty in respect of fisheries and the ownership of the sea and its resources.

Many of the iwi submitters stressed the importance of the Treaty in ensuring that Maori are viewed and treated as partners in the establishment and management of marine reserves. For example, the Ngai Tahu Maori Law Centre recommended the Act recognise the Crown's duties to tangata whenua, with special provision made in MRA to ensure an active role of tangata whenua in the establishment and management of marine reserves (233).

In reference to the rigidity of the legislation and the permanent nature of marine reserves:

[Ngati Toa] does not believe that this is a situation in which the Crown's right of kawanatanga can justify overriding Ngati Toa's rights of rangatiratanga and therefore believes that full provision should be made for it in the MRA as a Treaty partner. (260)

Several Maori submitters expressed the belief that the principles of Treaty of Waitangi should be a source of direction as to how the marine environment is protected. In particular, the ability to apply traditional rights in marine reserves, including kaitiakitanga and the use of rahui, was raised by iwi as a critical means of recognising Treaty principles. For example, Ngai Tahu recommended incorporating a hierarchical approach within the legislation to make it clear that mataitai, taiapure and other tangata whenua based fisheries management tools have priority, with provision in the Act to allow marine reserve proposals and fisheries management tool applications to be advanced as an integrated proposal (251).

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Several iwi submitters also raised the matter of partnership as a paramount concern in terms of consultation:

Meaningful consultation and honest co-operation will be possible when the Crown and its agencies see Maori as equal partners, rather than an irrelevant thorn that would be best disposed of. Therefore, before the Treaty principles can be properly recognised, the equality of Maori as a partner of the Treaty needs to be addressed. (241)

For Ngati Kahungunu, consultation processes are meaningless unless there is agreement first on overarching issue of what the Treaty means to Iwi in relationship to matters of ownership and management (247).

Several tangata whenua submissions considered mechanisms like reserves lock them out of or deny access to the very taonga to which the Crown had safeguarded their access, in breach of Treaty of Waitangi. Another aspect of Treaty principles raised by several submitters was in regard to the matter of fishing rights. This was not confined to customary rights but also to commercial fishing rights (for example, 167, 207, 220, 242).

Some contrasting views were expressed by several submitters (primarily individuals), who opposed the concept of providing tangata whenua with any rights or benefits above that of any New Zealander in general.

4.1.2 Should there be a Treaty Section in the Revised Marine Reserves Act?

Views varied considerably about whether there should be a reference to the principles of the Treaty in the Marine Reserves Act, and if so, in what form. Some of the views expressed included the following:

- Treaty principles do not have anything to do with conservation issues;
- Cultural rights to fisheries under the Treaty of Waitangi should be overturned forthwith;
- No change is required to recognise Treaty principles;
- Need to recognise Treaty of Waitangi obligations but this must not be overriding;
- Treaty of Waitangi obligations are covered by consultation process;

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- Repeat provisions in the Conservation Act;
- Treaty obligations need to be incorporated;

There was strong support for the Marine Reserves Act to give effect to the principles of the Treaty of Waitangi among the 15 submissions from tangata whenua who specifically addressed this point. For example, on the question of a new Treaty section:

*Te Taumutu Runanga do not endorse this as an option. **It is an obligation!** (120)*

While there was general support for the inclusion of a section on the Treaty in the Act, only a few specifically referred to the use of section 4 of the Conservation Act. Support for a Treaty section was often tied to the question of access and customary fishing and harvesting rights, although most also saw a Treaty section as generally important to ensuring the rights of tangata whenua are given effect in all aspects of the decision-making process:

This clause must reflect the Crown's acknowledgement that the Treaty forms a basis for the protection of the marine environment and continues to underpin the relationship between the Crown and Iwi today. (261)

Most of the ten central and local government organisations that addressed this point supported the proposition of having the Act recognise the Treaty principles in some form. The Auckland City Council considered that the Act should include reference to all Maori customary interests and rights including tino rangatiratanga, kaitiakitanga, whakawhanaungatanga, and taonga (250). There was also general support for Treaty recognition from the seven conservation boards and marine reserves committees and nine environmental NGOs that addressed this matter.

The four submissions from commercial fishing interests and the two from non-commercial fishers' organisations that addressed this point, generally did not support changing the Marine Reserves Act to recognise Treaty principles, or asserted that existing legislation was sufficient to ensure strong recognition of Treaty rights.

4.1.3 Defining Tangata Whenua for Consultation Purposes

The discussion Document asked how tangata whenua should be defined if consultation with tangata whenua were to be an express requirement of the Marine Reserves Act.

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Among the eight Maori authorities that specifically addressed this matter, no single position was common, although there was general support for defining tangata whenua. Several made reference to defining tangata whenua as “the whanau, iwi or hapu that holds mana whenua and mana moana over a particular area”. In reference to mana whenua, several submitters provided a definition of “that belonging to the hapu that exercises tino rangatiratanga over a particular area”: mana moana was given as belong to coastal hapu only.

There was no clear or consistent view expressed among the 48 submitters who specifically addressed the question. Several non-Maori submitters also suggested similar definitions to those proposed by iwi, although views varied greatly among these submissions. Some claimed they were not in a position to comment on this question, or that defining tangata whenua is up to Maori to decide (79), while another asserted that all New Zealanders are tangata whenua (118).

4.2 The Marine Reserve Application Process

Question 4 of the discussion paper (p.31) asked what consultation processes may be appropriate in terms of the status of iwi, timing, and that acknowledge tikanga Maori, for when:

- An application [for a marine reserve] is being developed;
- Formal submissions are sought; and
- The Minister considers objections and evaluates an application.

4.2.1 Consultation as Part of Preparing an Application

There was widespread support among the 68 submissions that addressed this question for consultation with tangata whenua to be a requisite part of the process of preparing an application for a marine reserve. For some of the Maori submitters, consultation and participation in the decision-making process is a means of giving effect to tino rangatiratanga: for example, Te Runanga o Toa Rangatira Inc (260). Many of the other submitters commented on specific aspects of the consultation process, ranging from critical remarks on the current process to positive suggestions on how the consultation process should occur. While a few submitters commented that consultation should encompass all stakeholders on the coastline, most submitters agreed that early consultation with tangata whenua is essential. Other suggestions or points made in submissions include:

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- local iwi should be involved in the committee process for forming the proposal;
- the Department of Conservation should assist non-DoC applicants in consultation with tangata whenua or at least provide guidance as to the relevant tangata whenua with whom to consult;
- Tangata whenua should undertake a report on the impacts of a proposal on their economic and cultural well-being;
- signed written records of consultation results should be kept, with a copy sent to tangata whenua;
- consultation with tangata whenua must be complete before notifying any application;
- record of unsuccessful attempts at consultation (for example, through series of letters) should be sufficient to demonstrate efforts at consultation made;
- all reserve applications should show tangata whenua support and that tangata whenua be joint applicants;
- must be face-to-face consultation at hui; and
- the reasons for the marine reserves and the environmental impacts must be clearly identified prior to consultation.

4.2.2 Consultation as part of Formal Submission Process

There was widespread support among the 27 submissions that addressed this matter for ensuring that tangata whenua are notified of applications for marine reserves within their rohe. Among some submissions from Maori authorities, as well as several other submitters, consultation with tangata whenua by the Crown (through the Department of Conservation) after an application is notified (and separate to the formal submission process) was seen as an important requisite of meeting Treaty obligations, quite outside the notification process. One submitter recommended holding meetings with iwi to discuss issues of concern to tangata whenua and to seek agreed outcomes (198).

The only significant divergence among the 27 submissions was in the weight given to tangata whenua in the process, ranging from treating tangata whenua as any other stakeholder through to additional consultation requirements outside the direct notification process.

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Few submitters addressed the hearing process specifically. The Taranaki Regional Council supported the Minister having the ability to hold hearings on submissions (47).

4.2.3 Making Decisions on Reserve Applications

Only 16 submitters directly referred to the decision-making process, of these 11 came from Maori authorities. There was general support for the rights of tangata whenua under the Treaty to be recognised in decision-making. Most submissions from Maori authorities considered the decisions should have more than “regard” to tangata whenua concerns, but that Treaty rights be paramount in the decision-making process. Indeed several urged that tangata whenua be given the ability to make decisions – for example:

The exercise of Rangatiratanga is also paramount. The real issue is not consultation. It is for Iwi to decide whether or not marine reserves should be established... the overriding issue is that this should not be a crown controlled and managed process. Iwi should possess the legal powers to establish such reserve if that is their wish. This is consistent with the self-governance rights under the Treaty. (247)

There was also support for the use of explicit criteria relating to the effects of proposed marine reserves on tangata whenua. Some referred directly to criteria on the effects on an iwi or hapu’s customary practice (247, 190).

Among non-Maori submitters, one submitter sought that tangata whenua should not be able to veto proposals if there is a good scientific reason for one (232). Another submitter considered that, although regard should be had to cultural and traditional interests, it should not extend to the ability to veto proposals (82), while another, in contrast, considered that a reserve should only be established with the consent of Maori interests (142).

4.3 Tangata Whenua Role in Reserve Management

The role of tangata whenua in the management of marine reserves was directly addressed by nearly 12% of all submitters, with most of these 32 submissions supporting the involvement of tangata whenua in marine reserves. One submitter referred to this role as being consistent with the guardianship responsibilities of tangata whenua, while others considered this to be consistent with Treaty principles (ensuring adequate recognition of rangatiratanga and tiaki moana).

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While many of these submitters were not, however, specific in the mechanisms for tangata whenua involvement, six submitters directly recommended the representation of iwi on reserve management committees, although another advised against token membership where the tangata whenua representative(s) are “lonely voices” (219). Several Maori submitters sought to have tangata whenua have joint decision-making responsibilities, or at the least, statutory advisors.

Opportunities to use traditional management methods were seen by Maori submitters as an important change to be made to the Marine Reserves Act. For example, the Ngai Tahu Maori Law Centre did not see that marine reserves management and customary fishing were mutually exclusive, and that taiapure and mataitai should be recognised in a new Marine Reserves Act (233). Another submitter commented that tangata whenua are people with practical experience and knowledge of what works in the management of the coastal environment (24). Ngaruahinerangi Tauranga Waka and Fishing Reserves stressed that there needs to be a full understanding of the protections of waahi tapu and rahui system as representing an important means of management, control law and order (259).

4.4 Customary Food Gathering

There was a polarity in views about whether provision for customary food gathering by tangata whenua should be made in marine reserves among the 52 submissions that directly addressed this matter. Customary take is also discussed in section 3.6.1 of this report.

Submissions from the 11 Maori authorities who submitted on this matter were generally adamant about the need for tangata whenua to maintain customary fishing rights in marine reserves. For example, Te Taumutu Runanga considered that, if customary take was not included as a permitted activity in marine reserves, then the legislation will be in breach of Article 2 of the Treaty (120), a comment reflected in other submissions from Maori authorities. Several submissions, primarily from individuals but also from a range of organisations (including conservation boards and environmental NGOs), considered that no one should be able to fish in marine reserves. Several referred to, in their support of prohibiting all take from a marine reserve, the effects that allowing tangata whenua’s customary rights would have been taken into account in its establishment. One submitter considered that the Marine Reserves Act should acknowledge that tangata whenua foregoes customary rights in establishing a marine reserve (134).

A contrasting view was advocated in the submission by Taiapure O Porangahau (33), which stated that:

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..marine reserves are too important as kohanga and marine baseline data sources to be opened to even limited taking for recreational or customary purpose...there is plenty of coastline in New Zealand ..- let people fish there instead..

Comments from other submitters include the following points:

- Boundaries of marine reserves should exclude areas of traditional food gathering to avoid conflicts of interest;
- Areas for customary harvesting be set aside under different legislation to that for marine reserves;
- Allow customary fishing in buffer areas/adjoining area rather than within marine reserves;
- Act should have criteria that require the adverse effects on customary rights be avoided or remedied; and
- Perhaps some form of compensatory mechanism for foregone customary rights should be established for tangata whenua, such as some form of ITQ substitution

5 Role of Marine Reserves within Marine Management

5.1 Better Co-ordination with Other Marine Management Tools

A large number of submissions (more than 100) from both individuals and organisations made general comments on linkages between marine reserves and other marine management tools. Some clear trends emerged from the comments on this issue, much of which generally followed the spectrum of marine management tools presented in the Discussion Document.

5.1.1 General Comments on Co-ordination

A small number of those who responded to this issue provided a 'yes'/'no' response to the question without any qualification or reasons for support or opposition. In many submissions, the response to this question reiterated the purposes and principles of marine reserves advocated earlier in submissions and so were not explicitly tailored in response to this particular issue.

Most of these submissions supported, in general terms, the proposal to 'co-ordinate marine reserves with other marine management tools' (as discussed on pp34-35 of the Discussion paper). This view was consistent across all types of submitters:

Currently there is little integration between the various organisations that manage the other protection and management tools in New Zealand. This needs to be rectified... (124)

Marine reserves should be better co-ordinated with other marine management tools to promote integration of management of the coastal environment (47)

Notwithstanding the above, several individual and organisational submissions specifically opposed the need for linkages between the Marine Reserves Act and other marine management tools. A common opposing view was that marine reserves are a specific tool that should stand-alone from other marine management tools and must be kept distinct from the range of other protection mechanisms available. For example:

... for marine reserves established for conservation and biodiversity protection and enhancement purposes...and other purposes...the Marine Reserves Act should be quite sufficient and no other marine management tools are required ... (216)

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A further view was that to integrate marine reserves with other marine management tools would be to create confusion for the general public of New Zealand as to the status of marine reserves and the level of protection that they offer. For example:

The marine reserve concept, total protection of all species and habitats within a marine reserve, is now accepted by New Zealanders and should not be clouded by other areas with different rules under the same name. (7)

Other management tools are not part of the Marine Reserves Act therefore the reserves cannot be correctly be called marine reserves and do not have the status nor fit the growing public perception of marine reserves ... it would be unwise to add confusion by establishing marine reserves under a plethora of regulation and discretion...(216)

One submitter commented that non-statutory guidelines that sit outside of the Marine Reserves Act could be developed to provide a more co-ordinated approach if a problem does occur and warrants a more integrated management (254).

Several Maori organisations and individuals responded to the question with broad statements in relation to the Review document itself. Some expressed concern that the review document fails to acknowledge the multiplicity of traditional management arrangements for coastal environment and others expressed concern that the review document has too narrow a focus on linkages between crown fisheries tools, rather than discussing proposals which will protect areas of customary fishing.

Several the submissions substantiated their responses by including specific comments and suggestions regarding linkages with other marine management tools. These suggestions are summarised in the following section.

5.2 Co-ordination of Marine Management Tools and Processes

5.2.1 Fisheries Tools

Several submissions commented in general terms with specific reference to fisheries tools. The comments were divided between two general viewpoints. Advocates of partially protected reserve areas and traditional management tools generally supported integration and linkages between marine reserves and fisheries legislation. These respondents were more likely to be Maori organisations, individuals, or local government organisations. In contrast, respondents advocating fully protected no-take marine reserves status generally opposed integration on the grounds that the purpose of marine reserves is not to serve as a fisheries management tool, and that statutory responsibility for managing fisheries would be split between agencies if the

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tools were integrated. One submitter commented that fisheries management should be brought under the wing of the Minister of Conservation (91).

5.2.2 Traditional Marine Management and Conservation Tools

More than 50 responded specifically in relation to the issue of the integrative use of traditional Maori marine management tools with marine reserves including kaitiakitanga, rahui, taiapure and mahinga mataitai reserves. Most of these submissions indicated general support across the range of submissions for increased emphasis and greater application of traditional marine management tools.

Several individual submitters and several submissions from Maori organisations were of the view that marine reserve ‘no-take’ protection status should be kept distinctly separate from any traditional arrangement of marine management. A common view in the submissions from Maori organisations was that existing marine management traditional tools under the Fisheries Act and the Treaty of Waitangi (Fisheries) Settlement Act provided a superior marine management model to the current marine reserves system, on the basis that:

- Traditional marine management tools provide better options by which to preserve to greater degree Maori customary rights and management techniques;
- By using the present range of traditional tools an holistic approach to marine management will be achieved; and
- Traditional management tools recognise and provide for the Treaty of Waitangi and offer more flexibility to tangata whenua and local community in managing local fisheries.

Several submissions clearly opposed the proposal to integrate marine reserves with traditional marine management tools on the grounds that the Fisheries Act already provides for varying levels of cultural and local management. For example:

Ngai Tabu Whanui already have an array of tools to manage fisheries resources and conserve biodiversity within the Ngai Tabu Whanui Takiwa. Te Runanga believes that these tools recognise and provide for the Article Two rights of tangata whenua and they offer more flexibility to tangata whenua and local communities in managing local fisheries resources are therefore inherently superior to anything marine reserves offer. (251)

It is the Association’s understanding that the review of the Marine Reserves Act should not involve a major review of other legislation. Given this it is difficult to contemplate a new

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Marine Reserves Act, which permits ‘take’, an activity that is clearly the purpose of the various Fisheries Acts. These Acts give strong weight to the Treaty of Waitangi and provide for varying levels of cultural take and local management (mataitai and taiapure). (177)

In contrast, several Maori submissions and several submissions from Conservation Boards, Marine Reserve committees and environmental NGOs clearly expressed their support for the integration and co-existence of marine reserve protection with mataitai and taiapure management tools. For example:

The Runanga are keen to see a substantial Taiapure put in place on either side of the marine reserve boundaries and ideally, would like to see the two systems in place at the same time... (26)

A provision [is required] that remedies the current situation that prevents mataitai reserves from being established where marine reserves are located. A provision that enables a protected area to be defined within a mataitai reserve of Iwi is required... (261)

While our Taiapure reefs are now under greater fishing pressure because of Te Angiangi, we endorse the reserve system for its multiple benefits and the expanded public awareness of what we have lost and need to try to regain... (33)

Many submissions advocated various levels of integrative ‘marine reserve-traditional management’ status and application. One submission expressed this by stating, “reserve status should be part of a continuum, including taiapure and mataitai” (46). Several promoted the greater application of traditional marine management tools in addition to, adjacent to, in conjunction with, or as a complement to marine reserves. The New Zealand Conservation Board, for example, commented that:

‘such a strategy would increase the critical mass of each protected area and provide for a spectrum of interests within the overall conservation ethic... (239).

A few individual submitters advocated the application of partially protected reserves through mataitai and taiapure mechanisms (eg.151), while others commented in relation to a combination of the above arrangements:

...There is no reason why mataitai and taiapure areas cannot be established adjacent to Marine Reserves, or in some cases even as a separate envelope within a surrounding Marine Reserve, or perhaps a Marine Reserve may be surrounded by much larger mataitai or taiapure areas. (176)

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A few submissions commented on their own positive experiences with the establishment of Taiapure and the benefits of Taiapure adjoining a Marine Reserve (for example, 211, 226).

One submission (235) also made a specific suggestion that the development of taiapure and mahinga mataitai reserves is an important tool in coastal management as a protection measure for specified emergency periods while information is gathered and researched, thus enabling the most appropriate future protection mechanisms.

Two Maori organisations also expressed concern with what they perceived as an inaccurate regard given to predominant traditional management tools being referred to as ‘other management tools’.

...The Fisheries (Kaimoana Customary Fishing) Regulations 1988 is part of the Fisheries Act under which Mataitai and Taiapure are regulated. These regulations are the means by which Maori can identify area of value for food gathering, spiritual and cultural purposes. These values would be diminished by the public consultation process should these regulations be used in part as a management tool. Therefore Mataitai and Taiapure should not be used in a generalised sense as a management tool. (220)

A few individual submissions expressed a lack of confidence in the effectiveness and ability of mataitai and taiapure marine management arrangements to work as efficient systems to manage sea resources (for example, 13). One submission (45) felt that the general public misunderstands mataitai and taiapure as marine management tools. Another submitter considered that, because mataitai are under Maori control, non-Maori may feel excluded from this model of management (19).

5.2.3 Resource Management Act Tools

Approximately 40 individual and organisation respondents commented specifically in relation to the integration and linkage of the marine reserves with tools under the Resource Management Act.

There was widespread support for linkages between marine reserves and District and Regional planning tools under the Resource Management Act. For example:

...Regional Councils should be given powers under the Resource Management Act...to introduce into regional coastal plans areas of marine reserves from high tide to 1km off shore. This would better integrate inshore management of the coastal marine area ... (174)

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Accordingly, many of the respondents on this issue advocated a statutory link between marine reserves and the functions and duties of local authorities, with particular regard to the preparation and development of Regional Coastal Plans. For example, the integration of those areas identified within coastal plans as significant areas requiring protection and the creation of buffer zones areas adjacent to marine reserves within coastal plans. This view was especially typical amongst submissions from local government agencies (for example, 179, 231).

A few submissions considered the application of specific land use regulations, prescribed within District and Regional Plans to marine reserve areas (for example, 226). One submission suggested the provision of financial contributions in relation to land use subdivision applications be incorporated in the establishment of no-take marine reserves (84), while another proposed that a progressive upgrading of waste discharges around the coast would encourage marine reserve status in these areas (195). A further view was that marine management requires co-ordination with parking, zoning and infrastructure provisions due to an increase in visitor numbers to marine reserves (208).

Several submissions were of the opinion that existing provisions within Regional and District Plans are the most appropriate mechanisms to control the effects of land use activities on those features of the coastal marine area requiring ‘partial protection’ measures, such as natural, scenic, geological and historic features of significance, and for those areas set aside for study (for example, 7 & 8).

A few submissions advocated a greater reliance on existing tools under Regional Policy Statements, District and Regional plans as vehicles for setting and establishing regional priorities for marine protection. These tools could identify in each region examples of habitats that are to be protected by the MRA. These protected areas could then be considered with any application for land use resource consent under the RMA. Stronger national guidelines were suggested to provide guidance on how Regional Coastal plans would identify, prioritise, manage and monitor such areas. One submitter commented that DoC and the Ministry of Fisheries should play an advocacy role within this process of identifying and zoning protected areas (211).

Several submissions from central or local government agencies and environmental NGOs advocated the establishment of a national or regional framework or strategy with the purpose of co-ordinating a ‘network’ of reserves on a national or regional basis and providing leadership at a national scale (refer also to Chapter 4 of this report in relation to ‘network’ of marine reserves). Several submissions suggested the New Zealand Coastal Policy Statement could fulfil this role, either embodied within the existing provisions or within a new NZCPS, while a few submissions proposed the development of a new national reserve management strategy. One submitter

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specifically identified DoC as the organisation that could co-ordinate a national strategy (20).

A few Maori organisations expressed strong views in relation to the integration of marine reserves with the New Zealand Coastal Policy Statement. These submissions noted that “a very strong thread running throughout the NZCPS is the significance of the marine coastal area to Maori” (259, 260), and for this reason, it was recommended that it is vital that the provisions set by the Resource Management Act and the NZCPS are considered in the proposal of marine reserves.

One submission suggested a reactive, rather than proactive, approach where ‘should a marine system face land-based threats then the appropriate tool to use would be the Resource Management Act’ (for example, 26).

One environmental NGO (274) expressed concern that while regional coastal plans set the baseline for activities in the coastal marine areas and may identify areas of special concern, they do not provide strong protection measures against activities in the coastal marine area such as fishing or mining.

While not explicitly opposed to co-ordination between marine reserves and the Resource Management Act, a few submissions were mindful of the potential for overlap, and inconsistencies between protection mechanisms and provisions within Resource Management Act and the controls in a marine reserve. It should be noted that several other submissions were variously opposed to or were uncertain about whether there should be better co-ordination, integration and linkages between marine reserves and tools under the Resource Management Act.

5.2.4 Other Conservation Tools

More than 20 submissions specifically addressed linkages with conservation tools. Many of these restated general statements of support for the integration of the Marine Reserves Act with land protection. This view was variously supported across the range of submitters. Reasons for support included:

- To ensure ecological continuum between the land and the sea is maintained;
- Co-existence of land and adjoining sea may provide an ecological unit that has greater ecological qualities than each component on its own; and
- National parks are the most stringent protection in the terrestrial environment – the marine environment has similar sensitive areas that should be subject to the same level of protection and management.

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Several submissions advocated an integrated coastal management approach, corresponding closely with the objective identified within Section 3 of this report that ‘there be greater integration of the purposes of marine reserves within those providing land-based protection, particularly where marine reserves or proposed marine reserves were adjoining protected land areas’.

In general, the view of Conservation Boards, Marine Reserves Committees and Environmental NGOs generally supported extending the jurisdiction of the Marine Reserves Act to include the beach areas adjacent to a marine reserve, thereby offering full protection status to both the marine reserve and the land adjacent to reserves (for example, 79, 98). A few submitters also believed that this concept is easily understood by the general public and so makes education and policing easier (for example, 73).

Several submissions commented on the co-existence of land and marine protection and made specific suggestions regarding possible management, governance and legislative structures. A few submissions (individual, central/local government, environmental NGOs) advocated a common framework, or a single statute, an overall controlling authority that would include both land and marine protected areas (for example, 179, 219).

One submission advocated a more flexible approach in preparing Conservation Management Strategies under the Conservation Act 1987 (163). Another advocated more co-ordination of management so that marine reserves includes sensitive areas such as shoreline for nesting birds and that the management of beach reserve between land and MHWS should be transferred from local authorities to DoC (174).

One Maori organisation implied support for the co-ordination of existing legislative options, including marine mammal sanctuaries, within a ‘holistic management model’ of marine reserves.

Two submissions expressed strong views in opposition to the integration of Marine Reserves Act with land protection and conservation tools, based on experiences with the listing of Hauraki Gulf Marine Park (7,8). These submissions questioned the protection offered by ‘marine park’ status and advocated that marine protected areas currently with marine park status should have the equivalent protection offered under Marine Reserve status.

5.2.5 Other Tools

A couple of submissions commented in relation to the passage of vessels and navigation bylaws. One submission in particular (163) suggested that a transfer of

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powers to the body responsible for the management of marine reserves might represent a more integrated marine management approach. For instance, the control of vessels on the sea surface within a marine reserve may be transferred to the Marine Reserve Management Committee under the Local Government Act.

5.3 Relationship of Marine Reserves Act with Other Marine Management Statutes

5.3.1 Hierarchical Approach to Marine Reserves

Several submitters implied support for a hierarchical approach to marine reserve protection. Several considered that the Marine Reserves Act should be the overarching marine reserve management mechanism, representing the ‘pinnacle’ of marine reserve protection (for example, 119, 134, 208). Others promoted the Marine Reserves Act as the most appropriate vehicle to co-ordinate the range of marine management legislation and tools while also ensuring that no other method is inconsistent with the Marine Reserves Act (for example, 134, 198).

5.3.2 Oceans Policy

Several submissions contended that a key method to improve linkage between marine management tools would be to develop an overall policy for marine management and integrated into the development of the nations oceans policy (for example, 167, 157, 64, 125, 208). Several organisations variously suggested the development of an overarching piece of marine management legislation, a national marine reserve management strategy or a national marine reserve policy framework (for example, 101, 167, 229, 131, 66). These issues are discussed specifically in Chapter 3 of this report.

5.3.3 Broader linkages/outcomes

A few submissions, mostly environmental NGO organisations discussed linkages and co-ordination of marine management tools within a broader context, including that:

- Marine reserves should be used as a tool to achieve the relevant marine objective of the New Zealand Biodiversity Strategy.
- Effect should be given to New Zealand’s international obligations, including UNCLOS, Convention of Biological Diversity, and Convention for the

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Protection of Natural Resources and the Environment of the South Pacific Region.

- Long-term suggestions as outlined by the Parliamentary Commissioner for the Environment in ‘Setting Course for a Sustainable Future’ should be followed to ensure that management of our coastal and marine ecosystems occur in a more integrated manner.

6 Process for Establishing Marine Reserves

The Discussion Document addressed several issues related to the process for establishing marine reserves. These issues (including various questions and options) were structured so submitters could respond with a ‘yes’/‘no’ response, or with general comments, or the option of both. Very few submissions responded explicitly to all the questions and options relating to this issue. However, some clear trends are evident in the comments on each of the separate issues. This section summarises these comments under four key headings including ‘Application Process’, ‘Consultation Process’, ‘Balancing Interests’, and ‘Timeframes’.

6.1 The Application Process

A large number of submissions (more than 95) made general comments on the application process for the establishment of marine reserves. A few of these submitters implied support for amendments to the current marine reserve application process by expressing concern regarding the inefficiencies of the current application process, while many clearly supported the various proposals presented in the Discussion Document. These views were consistent across the range of submission categories.

6.1.1 Who should be able to apply for a Marine Reserve

More than 60 submitters provided a ‘yes’/‘no’ response to each of the three options presented in the review document. Of these responses, approximately $\frac{3}{4}$ of the submissions supported the proposals to remove the scientific study requirement from the current list of who can apply, and also removing any reference or specification as to who can apply for a marine reserve. Reasons for this support included:

- All marine reserve applications deserve consideration;
- Any individual, group or organisation should be able to apply for a marine reserve;
- ‘Ordinary’ people should not be disadvantaged by current restrictions of who can apply for a marine reserve;

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- All vested interest groups at a particular location should have an equal voice in the process
- It is less important who applies for a marine reserve and more important that the process and quality of application is ensured; and
- The existing constraints under the MRA on ‘who’ can apply are restrictive and artificial.

More than eleven respondents specifically favoured the proposal to ‘extend the list’ of who can apply for the establishment of marine reserves. Examples included the extension to include Iwi, Local Authorities, the New Zealand Historic Places Trust, Conservation Boards and Educational Institutions.

Several submissions variously opposed the proposal to remove the scientific study requirement and the extension of the list of those who can apply.

6.1.2 Specifying Information to be provided in an Application

More than 45 submitters provided a ‘yes’/‘no’ response to each of the two options discussed in the review document, regarding what an application for the establishment of a marine reserve should include. Of those who responded to this issue, there was substantial support (30 submissions) in favour of the option to ‘specify information to be included in an application’. This view was generally on the grounds that there should be less focus on ‘who can apply’ for a marine reserve, and more emphasis placed on the quality of applications. Particular regard was accorded to the importance of quality consultation procedures, the inclusion of quality information within marine reserve applications (for example, 212, 92, 108, 122, 163, 270, 175).

More than 15 submitters indicated support for the proposal to employ appropriate screening mechanisms to ensure the quality of marine reserve application, including assurance that the applicant has followed the correct process and procedures, that the application contains sufficient and quality information, and that the application meets the purpose of the MRA.

Conversely, a few submissions opposed these views. Some of these views were: commenting that:

- The current approach under the MRA is adequate to screen out insufficient or ill conceived proposals (for example, 146);

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- It would be wrong for DoC to screen applications as DoC already has too much control (153); and
- A more flexible approach is needed, so that guidelines should provide guidance but not be used to refuse any application (163).

6.1.3 Evidence and Submissions in Support of a Marine Reserve

More than 50 submissions gave a specific ‘yes’/‘no’ response in regard to the formal submission process and the options presented in the Discussion Document. Of these submissions, a large number (44 submissions) favoured the proposal to allow submissions in support to be made during the public process following notification of the application.

Very few submissions (five) specifically responded to the option of allowing the applicant to include evidence of public support when they submit an application: all five favoured this approach (249, 64, 228, 232, 7).

Twenty-eight submitters answered specifically ‘yes’ to the proposal to ‘provide an optional process whereby the Ministers may conduct hearings’ when evaluating the application, in addition to, or instead of receiving written submissions, while one submitter opposed this option (232).

Additionally, at least six submitters specifically favoured the provision of oral submissions in addition to written submissions. This view was most likely to be from central and local government authorities, conservation boards and marine reserve committees and environmental NGOs. Notably, only one Maori authority specifically addressed this matter (241). However many more implied strong support through the promotion of traditional Maori practice and Iwi consultation requirements. While not explicitly opposed to oral submissions, a few submissions specifically supported written submissions (for example, 90, 108).

A few submissions advocated provision to enable appeals against decisions to establish marine reserves (229, 232).

6.2 Consultation Processes

More than 190 submissions commented in general terms with regard to consultation processes under the MRA. Of those who responded in relation to consultation processes, there was strong support for the proposal to streamline and improve the ability of tangata whenua, local communities and other stakeholders to contribute to

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make decisions on approving marine reserves through consultation processes under the MRA.

Many submissions specifically addressed consultation in relation to tangata whenua: this is discussed more closely in Chapter 4 of this report.

Many of the comments reiterated comments noted earlier in this submission analysis regarding the application process and were phrased in general terms. For example:

- The current consultation process is too exhaustive and is a barrier to groups such as iwi, conservation groups, and other interest groups proposing to establish a reserve;
- Consultation should begin at the very start of an application and should be an ongoing process;
- Consultation should be a democratic and less exclusive process;
- All vested interest groups at a particular location should have an equal voice in the process
- The current consultation must be streamlined so that marine reserves are established more quickly;
- The consultation process must be inclusive of all interest groups; and
- Consultation is the most important criteria when it comes to the establishment of a marine reserve as many peoples' lives may be affected by the outcome.

Several submissions qualified their response by providing more specific comments as to how the MRA can require early consultation to be done and the streamlining of consultation. For example:

- Consultation processes should follow those prescribed under the RMA;
- Consultation can be undertaken through a range of media advertising: for example newspapers, community meetings, radio and local authorities;
- Firm guidelines under the MRA need to be established that specify consultative requirements;
- Public education is required to inform interest groups and the general public with regard to marine reserve application, status and requirements;

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- Consultation should be included as part of any quality application and DoC should be satisfied that the applicant has consulted with all affected parties and ensure that the quality of the consultation undertaken is appropriate;
- Accurate records and evidence of any consultation must be kept; and
- More funding and resources is required to provide for the involvement of interest groups in the consultation process.

While a few submissions did not explicitly oppose the proposal to streamline the consultation process under the MRA, they made the following comments: that the provision for consultation under the status quo is sufficient; the obligation of consultation is that of the applicant to ensure that the level of consultation undertaken is appropriate (for example, 150); and the specification of consultative requirements should be an optional mechanism (for example, 199).

6.3 Balancing Different Interest in Considering and Making Decisions on an Application

More than 65 submissions responded to the issue of how national, local and individual interests should be balanced when the Minister considers objections, evaluates an application and decides what can occur in a marine reserve. There was general support for the proposals to review and clarify criteria by which Minister considers objections, to establish clear guidelines and criteria, to develop a decisive approach, to include criteria relating to tangata whenua, and to establish appropriate timeframes.

Maori authorities were clearly in favour of giving weight and priority to tangata whenua interests (103, 220, 259). Some of the points made include:

- Tangata whenua, in collaboration with wider local community, are in the best position to assess any effects of a marine reserve on Treaty of Waitangi principles;
- Minister should give full consideration to the aspirations of tangata whenua, (whether customary, commercial or recreational), before those of other interest groups; and

Two Maori Authorities commented more generally in relation to Treaty partnerships and Crown/Iwi relationship (247, 251). For example:

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- The process and criteria whereby the Minister evaluates applications for marine reserves will not be resolved until the Crown negotiates with Iwi in good faith and without preconceived ideas; and
- DoC needs to reflect Treaty partner relationship first such that tangata whenua submissions should be treated separately and hold greater standing compared to interested parties and stakeholder submissions.

More than 15 submitters advocated a hierarchical approach to balancing different interests, where long term national considerations took precedence; such matters included ecological and biological interests (for example, 35), national conservation interests (for example, 228), preserving the treasures of the whole country (for example, 61), indigenous biodiversity (146), and matters of national importance prescribed under the RMA (82).

Several submissions further advocated national priorities within a broader context, including the NZ biodiversity strategy and the oceans policy (for example, 270). They also commented that the current list of interest is too narrow and should be extended to include international responsibilities (for example, 273, 82, 112).

Conversely, ten submitters advocated a hierarchy whereby individual local or community interests should have precedence over national interests (for example, 108, 185, 101, 102, 186, 77). Several substantiated their response by including reasons for support of this view, including:

- The majority of submissions for and against a marine proposal will be from locals because they are the ones most affected;
- Local user groups and individuals should be given special consideration since the outcome has direct bearing on their movements in their own area of use; and

One submission suggested that local and individual interests need consideration when establishing boundaries for a reserve, but that national interests must take priority when a conflict of interest compromises the level of protection offered by the marine reserve status (30).

Several submitters advocated a more general and flexible approach to balancing national, local and individual interests (for example, 18, 19) stating that the decision to establish a marine reserve is an expression of value, therefore, views and interests will vary depending on the local context of the proposed marine reserve area.

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Several submissions specifically advocated structures and processes under the MRA to be consistent with those prescribed under the RMA (for example, 198, 177, 143), while others implied support for this concept by comparing inadequacies of the MRA with the RMA (for example, 209). A couple of submissions (for example, 224) advocated the Environment Court for final arbitration to establish priority of use.

Two submissions made specific reference to section 5(6) of the existing MRA (70, 188). Section 5(6)(a)-(e) provides five criteria that the Minister uses as criteria when considering objections to a marine reserve application:

‘...The Minister...shall uphold an objection if he is satisfied that declaring an area a marine reserve would--

- (a) Interfere unduly with any estate or interest in land or adjoining the proposed reserve;*
- (b) Interfere unduly with any existing rights of navigation;*
- (c) Interfere unduly with commercial fishing;*
- (d) Interfere unduly with r adversely affect any existing usage of the area for recreational purposes; and*
- (e) Otherwise be contrary to the public interest.*

These submissions specifically requested that:

- section 5(6)(a)-(e) be retained;
- 5(6)(e) be amended to include an additional criteria which states *‘or the proposed marine reserve is to be located either wholly or partly adjacent to privately owned land, 50% or more of owners have objections’*;
- the phrase *‘he is satisfied that’* in section 5(6) be deleted, on the grounds that the decision to uphold an objection to a marine reserve application should be based on law and fact, rather than one person’s (the Minister) opinion; and;

It was also considered that sections 5(6) and 5(9) of the MRA, in respect of the Minister’s decision, are outdated on the grounds that the Minister should consider whether long-term advantages would outweigh any immediate disadvantages to local communities (for example, 219).

A few submissions considered that much less emphasis should be given to short term interests of commercial and recreational fishers (for example, 243).

One submitter questioned how the Minister will deal with a proposed marine reserve that does not add significant value to national framework for biodiversity but has community support; and vice versa? The submitter also questioned who would decide the relative priority between different values? However, another submitter

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commented that there is a significant body of case law being established that will address this issue, therefore, these matters do not need to be codified in legislation.

6.3.1 Criteria for Decisions

In total, more than 80 submitters commented in relation to criteria for the decision-making process.

About ten submissions expressed general support of the proposal to clarify the Minister of Conservation's criteria for decision-making when evaluating an application for a marine reserve, but without further qualification or reasons for support.

Many more submissions advocated support to extend the criteria to include tangata whenua and other factors relevant to marine reserves that have a wider purpose, on the grounds that the current criteria are too narrow and not well defined (for example 212, 201, 256, 20, 47). Some of these submitters supported the extension of criteria to include the adjacent landmass to the EEZ and to the continental shelf, while an environmental NGO advocated that the rights of adjacent land should not have any weight in regards of decision (142). A further range of criteria were also suggested amongst submissions, including:

- National criteria based on nationally effective network of reserves to maintain marine biodiversity;
- Criteria which determine significance;
- Criteria which determine a precautionary approach;
- Contribution to protection of biodiversity;
- Intrinsic ecological values;
- Best information available;
- Having regard to Regional Policy Statement and Regional Coastal Plans;
- Submissions in support and opposition;
- Opinion of local people, including tangata whenua;
- Economic cost to community of establishment, maintenance and provision of public access;
- Cumulative effects of present or future use;
- Effects on recreational fishing, commercial fishing, and diving;
- Delineation / boundaries of an area;
- Values of an area;

While several of these submissions generally supported the proposal that the MRA should list specific criteria (for example, 47) to which the Minister should have regard when considering and evaluating an application, others suggested a formal set of

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publicly available criteria against which applications will be assessed in accordance with the purpose of the MRA (for example, 65).

In relation to decision-making powers, several submitters variously expressed uncertainty with regard to the concurrence role of the Ministry of Fisheries in the decision-making process on the grounds that it should not be necessary for the Ministry of Fisheries to approve an application, or that other Ministers should not have the right to veto the establishment of a marine reserve (for example, 12, 45, 108, 125, 262, 273).

Two submitters specifically suggested that the concept of a dual ministerial role needs to be removed and that all government departments should be on the same footing and submit like the general public (for example, 158). Several submissions, mainly conservation boards and environmental NGOs advocated that DoC should have full responsibility for the establishment of marine reserve (for example, 221, 274, 199, 265, 26, 64).

An environmental NGO proposed DoC and the MoF should jointly evaluate proposals for the establishment of marine reserves (25). In contrast, commercial fishing interests asserted a different view by advocating the retention and clarification of the concurrence role of the Ministry of Fisheries (for example, 167, 229). A few submissions, including one recreational fishing group, asserted the view that the Ministry of Fisheries should have veto power over the establishment of marine reserves, if it is not in the national interest (for example 30, 245).

Several submissions recommended independent analyses, evaluation and advice be provided in cases where DoC is the applicant (for example, 19, 91, 78, 140).

The general view from Maori authorities included:

- the approval for a reserve should only be granted after tangata whenua have undertaken a full assessment on the impact of reserve status on cultural and economic well-being;
- the Minister of Conservation should make the final decision subject to the concurrent Minister, for example the Minister of Fisheries ;
- Iwi should exercise the power to consider the effects on tangata whenua, not the Minister;
- DoC should facilitate the process, not hinder or sit in judgement.

(Refer to section 4: Treaty of Waitangi Principles)

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One submission stated that tangata whenua should not be given power to veto proposals where there are good scientific reasons for a reserve (232).

A further viewpoint expressed was that Ministers' decisions should be based on merits of a proposal and whether the reserve should contribute to the protection of biodiversity (150). Others commented that the Minister should have power to amend a proposal as a result of submissions and hearings (for example, 91, 174). Another view was that the decision to establish a marine reserve should be a collective decision by parliament/cabinet (262).

Impacts of a Proposed Marine Reserve on Commercial Fishers

More than 100 submitters provided general comments in relation to the impacts of marine reserves on existing users, more specifically in relation to the impacts on commercial fishers.

Many of those who responded to this issue, generally considered the impacts of reserves on commercial fishers to be an integral component of the establishment and evaluation of marine reserves (for example, 256, 231, 250). Several of these submissions provided more specific suggestions. Approximately 15 submissions specifically supported the need to compensate commercial fishers (for example, 243, 102, 167, 229). Effects discussed included fishery-wide effects, effects at the level of individual fishers and the effects on the value of property rights. This view was most likely to be from Maori submissions and commercial fishing interests, although a few individuals and environmental NGOs also held this view. Reasons for support of compensation included:

- To cover for loss of income;
- To eliminate the potential need to compromise the size of a proposed reserve due to potential financial impact on fishers; and
- To reflect the precedent set in other legislation for compensation for affected parties whose ability to exercise property rights is prevented.

Submissions from commercial fishers (for example, 167, 229) strongly argued for compensation based on other Acts that currently allow for compensation: for example, the RMA 1991, Crown Minerals Act 1991, Public Works Act 1981, Local Government Act 1974. They argued that provisions that provide for compensation could be incorporated into the MRA.

Submissions from commercial fishers argued that there should be three main requirements for the fair evaluation and management of the effects of a marine reserve proposal on commercial fishing and marine farming, including:

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- An appropriate legislative test and / or criteria and the Minister should continue to uphold an objection to a marine reserve where the Minister is ‘satisfied that declaring the area a marine reserve would ... interfere unduly with commercial fishing’;
- An appropriate process of evaluation that includes a rigorous process to assess whether there is actually a need for a marine reserve, the roles of the Department of Conservation and the Minister of Fisheries, and the ability for an appeal on matters of substance and merit;
- Provision for compensation where a fisher’s ability to exercise his or her property rights is adversely affected by the establishment of a marine reserve.

Six submissions, including conservation boards, marine reserve committees and environmental NGOS, specifically opposed the provision of compensation to commercial fishing interests on the grounds that:

- Effects on commercial fishing are secondary to preserving biodiversity and should not be considered when establishing reserves;
- Marine reserves areas do not encroach on the rights of quota owners;
- Marine reserves do not result in a loss of publicly owned space.

These submissions advocated early advocacy and education regarding the positive effects of marine reserves on commercial fishers; for example, the actual enrichment of fishing areas for those extracting marine life outside of the refuge area through improved restocking.

6.4 Timeframes for Application Processes

More than 90 submissions provided comments regarding timeframes for the application process. The majority of these submissions supported the proposal for setting timeframes throughout the application process. Reasons for support generally focused on the current time delay in the application process and that prescribing specific timeframes would result in quicker and more efficient decision-making (for example, 273, 59). This view was typical across all types of submitters.

Most of those who supported timeframes made comments on one, two or all three respective components of the application process, while some made more general comments in relation to the entire application process.

Submissions from Maori authorities (for example, 103, 220, 233, 251) generally advocated a flexible approach that would allow sufficient time for Iwi to be properly

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consulted, and also to allow Iwi to consult amongst themselves. They contended that timeframes should not be rigid, so as to allow marine reserves to be assessed on a case-by-case basis dependent on the size and complexity of the proposal. Specific suggestions included between 3-6 months to allow for consultation with Runanga and to allow Runanga to make submissions.

Fifteen submissions specifically proposed timeframes for the entire application process, and the range of responses included 6 months to process the entire application from start to finish to a 3-year maximum timeframe. However, most of these submissions felt that an appropriate timeframe would be no longer than a one-year period (for example, 5, 13, 20, 54). This view was most likely to be from individual submitters.

More than 45 submissions variously suggested timeframes for one, two or all phases of the application process. While several advocated definite timeframes for the different components, other promoted flexible timeframes that can be adjusted according to each marine reserve application. Notwithstanding these conversing views, several key themes emerged across the range of submitters, including:

- Current timeframes under the MRA are inadequate and need to be extended;
- The formal submission process should provide adequate time after the proposals are announced, for consultation to be undertaken, and for submissions in support or opposition to be made by all parties, between 2–6 months for formal submission process;
- Between 2-6 months for applicant to respond to objections;
- An appropriate timeframe needs to be established within which an application is approved following the submission process – this will prevent any delay between the end of the submissions and the Ministers’ decision - anywhere between 1-3 months, and no more than 6 months; and
- The MRA should include as a minimum the timeframes and processes for notified resource consent applications prescribed under the RMA.

Four submissions opposed the proposal of timeframes, citing the following reasons:

- There is no need for timeframes, rather set standards and outcomes to achieve;
- Current timeframes are sufficient;
- Timeframes would place pressure on local DoC conservancies causing them to shy away from marine reserve applications;

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7 Managing Marine Reserves

7.1 Mechanisms for Tangata Whenua and Community Involvement in Marine Reserve Management

About 100 submitters commented in relation to the management of marine reserves. There are several components to this issue and very few of these respondents commented explicitly answered all aspects of the question. However, some clear trends are evident in the comments on the separate components.

7.1.1 The Committee Concept

Many of the 100 submitters commented generally about committees but did not specifically comment about whether these should be set up under MRA or not as the question asked. Of these, over 75% supported the concept of reserve committees. While some stated this clearly many others implied their support by commenting on aspects of how committees should be set up.

Reasons given for supporting the committee mechanism included: that it

- Establishes the appropriate mechanism for collective decision making;
- Provides improved opportunities for participation;
- Provides more chance of getting support and resolving issues if interests are represented and seen to participate in managing marine reserves;
- Is a means of encouraging a sense of public ownership because it is seen as a public mechanism; and
- Represents the idea of local stewardship through local representation and involvement.

A few of the submissions on this question did not support reserve committees. Reasons for not favouring reserve committees included:

- Unnecessary bureaucracy; and
- Reserve committees are ineffective and not necessarily focused on the best interests of the reserve.

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It should also be noted that many of the submissions also expressed some reservations or conditions about committees, including:

- How much influence should committees have?
- Committees must be public forums with free access to meetings and information for interested parties.
- Committees should conform to national standards.
- They will need to be accountable for their decisions, with processes transparent to the public.
- There may need to be some flexibility in the system to cater for local circumstances.
- Adequate resources in the way of funding, expertise and administrative support will be essential if committees are to work.

Reservations were particularly noticeable in the submissions from Maori: however whether or not they supported the committee concept, all wanted greater autonomy.

7.1.2 Committees under MRA or Status Quo

Of the 100 submissions, about 50% responded with regard to committees and gave a clear opinion about whether or not reserve committees should be set up under MRA. This group was almost evenly split between those in favour and those against.

The two opposing views were similarly represented according to types of submitters except for Maori; of whom none in favour of the status quo, a number who supported an MRA committee structure, and some that did not consider committees were a suitable mechanism for resolving differences between the value systems of tangata whenua and the local community or were not a suitable mechanism for resolving issues between tangata whenua and the Crown.

Greater autonomy and community / tangata whenua involvement were the main reasons given by those in favour of setting up committees under MRA. Those who favoured the status quo cited the skills and experience of the Conservation Boards (216) and the need to retain a consistent strategic approach rather than establishing separate entities (for example, 150, 216). Several of those who favoured the status quo did suggest that provision could be made for reserve committees under MRA but these committees would continue to be conservation board committees (228).

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Of those submissions made by Conservation Boards, several advocated for the establishment of marine reserves under the MRA (for example, 96, 134, 221), while others specifically suggested that the status quo remain and that the marine reserve committee concept should remain a subcommittee of the Conservation Board (for example, 131, 215).

7.1.3 Representation

Of the 100 submissions, representation on reserve committees attracted considerable comment.

Who should be represented?

Most of those who commented in relation to reserve committees felt that reserve committees were an appropriate mechanism to involve tangata whenua and local communities in marine reserves management. Nearly half of the submissions on question 11 specifically mentioned tangata whenua representation as important, and more than a third mentioned local community interests. These views were consistent across all types of submitters.

Several other groups or agencies were also variously recommended. These were: adjacent landowners, camp ground operators, charter boat operators, commercial fishing, conservation board, district councils, DoC, environmental groups (at least one per committee), heritage expertise where relevant, national interests, marine expertise, recreational fishing, regional advisors, and scientific expertise.

There were concerns raised about representation however. In particular, several submitters felt that fair representation of interests was likely to be an issue: that it was important for all interests to be represented autonomously, that committees be unbiased, and that no particular groups or interests should have special privileges or status. Representation of vested interests was also raised with the suggestion that these be specifically excluded, in particular developers and commercial fishing interests.

Selection Process

Several submissions commented about selecting reserve committees, and these comments fell into two broad camps. Several felt that a flexible, non-mandatory framework was needed which would allow varying committee composition depending on local circumstances and that local or affected parties should decide what the structure should be. A variation on this was the idea that there be several options for forming committees, similar to that of the Reserves Act.

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Several other submissions favoured a more structured approach, where make-up of committees and the committees' functions would be specified in the MRA. Specific suggestions included:

- Stipulating tangata whenua representation. Several submitters (most of them Maori) suggested that a minimum level of tangata whenua representation should be guaranteed, varying from 30% to 50% to facilitate better partnership. Of these, two suggested 50% partnership with either DoC or with local authorities. One submission from Maori considered that, to comply with the Treaty, tangata whenua representatives must be appointed by their own trust boards and not co-opted to committees;
- A 3 yearly nomination and election cycle;
- Maximum of 5 members representing iwi, conservation board, local authority, commercial fishing, and recreational fishing;
- Committees should have limited numbers but be elected by a wider group membership; and
- Committee representatives by nominated by the community but appointed by the Minister for a 3-year term.

7.1.4 Other Options

About one third of the 100 submissions that responded to the marine reserve committee concept suggested alternative options to the reserve committee concept or made suggestions about process. It should be noted that, although the question was framed in terms of options for improving tangata whenua and local community involvement, not all the submissions appeared to be responding specifically within that context.

Tangata Whenua Management

Several the submissions on other options were from Maori. The options suggested were:

- *Partnership with DoC.* With regard to the management of established reserves, a forum of tangata whenua with DoC to collaborate with other interested parties to find solutions and have two advisors to the Minister (one Maori and one DoC).
- *Precedents for managing customary rights.* Several of these submissions clearly felt that the Fisheries Act approach to establishing and managing

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mataitai reserves, taiapure and tangata tiaki/ kaitiaki area was worthwhile. One submission suggested giving extra powers to committees to manage mataitai and taiapure while another suggested transferring statutory conservation and marine reserve management functions to tangata kaitiaki committees. Another suggested that committees should have a triple function: marine reserve/taiapure/ mahinga mataitai, managed jointly between tangata whenua and DoC.

- **Autonomy.** Autonomy was an important issue in submissions from Maori. This ranged from emphasising the need for local people to have management responsibilities, to stipulating 50% partnership between tangata whenua and either DoC or local authorities. Others proposed mataitai and taiapure committees which would have more powers delegated directly from the minister. Another proposal was for iwi to form their own independent governance bodies.

Committees at Application Stage

Several submissions suggested that reserve committees should be set up at the beginning of the marine reserve application process as a means of better involving interested parties. Developing criteria for selecting sites was suggested so that local interests could be responsible for the site selection. If successful, the application committee could then be reformed to be reserve committee with responsibility for managing the marine reserve.

Regional Management Committees

Several submissions suggested that some form of governance at the regional level was needed, as separate reserve committees would reduce integration and coherence of conservation strategies at the wider scale. Three main options suggested:

- Single regional committee - comprising DoC, tangata whenua and local communities by appointment; or
- Regional Councils; or
- Conservation Authority units – a ‘marine version’ of conservation boards a Marine Reserve committee or, at least, augment existing conservation boards with marine expertise.

7.2 The Role of Marine Reserve Management Committees

7.2.1 Functions of Committees

There were about 50 submissions on this question. These submissions variously supported the following functions of marine reserve management committees. However, there were no obvious trends from any one group except for the Maori respondents who focused only upon the need for decision-making functions without mention of specific ‘on-the-ground’ functions (190).

While there were a few submitters who felt there should be a good deal of flexibility for each committee to decide its own functions according to the marine reserve and local circumstances, most did make some specific suggestions on functions, which fell into two main categories – General decision-making and more specific-action type functions.

General Decision-Making Functions

Decision-making

Several submitters contended that reserve committees should have wide powers to control such aspects as policy, budgets and enforcement with independent decision-making:

Committee functions should include full management functions and should not be advisory to any other group but the Minister (134) or

Reserve committees must have decision-making power and a degree of independence from their governing body e.g. school trustees. (73)

Day-to-day Management

Several submissions proposed that reserve committees should be responsible for implementing management policies such as enforcement, safety, promotion and information gathering. These submitters appeared to feel that the ultimate responsibility for policy and decisions should lie beyond the reserve committee with either DoC or the Conservation Board structure, although the committees might well provide assistance and advice (for example 221,96).

Summary of Submissions

Overview Management

Conversely, a similar number of other submitters felt that allocations of functions should be the other way around – that the reserve committees should simply have an overview management role, deciding the policy and strategic directions for Marine Reserves, while DoC or the Conservation Boards should undertake the day-to-day management, operational and advisory functions (for example, 5, 190, 265). Several submitters commented that while DoC support and experience was seen as important, it was also important that the reserve committees be independent so that non-DoC views could be represented.

Management Plans

Several submitters thought that reserve committees should have input to and, in some submissions, responsibility for preparing and reviewing management plans. There were differing views on who should have the power to approve the plans though: conservation boards (for example, 258), DoC (for example, 156), or the committees with powers delegated straight from the Minister (for example, 103,190). Several submissions suggested business plans as a means of managing and scrutinising DoC's operational functions, on the basis that the conservation boards continue to have an overview management role.

Advisory Role

Several submitters felt that an advisory role to either DoC or direct to the Minister was appropriate rather than having independent management powers.

Specific Action Functions

Several functions aligned to the day-to-day / operational side of marine reserve management were suggested for reserve committees, including:

- *Monitoring* – visitor impact, safety issues, marine reserve values
- *Education and promotion* – to promote public awareness of marine reserve values
- *Advocacy*
- *Public liaison* - co-ordinating role between local communities, other interest groups and the management structure;
- *Enforcement* – have enforcement powers, perhaps work jointly with local communities with local rangers

Summary of Submissions

- *Scientific research* – Approve, organise and seek funding for research projects.

Other functions that received minor mention were: deciding harvesting quotas, managing commercial interests, and managing economic returns derived from the marine reserve on behalf of the community.

7.2.2 Relationship to Conservation Boards

There were more than 70 responses regarding the relationship between reserve committees and Conservation Boards and they tended to be from Environmental NGOs, central and local government, Conservation Boards and marine reserve groups.

Status quo

Nearly 20% of these submitters favoured the status quo. The main reasons were that:

- It provides for an integrated marine/land approach;
- The systems are already in place;
- Committees should be advisory only;
- The present system makes sure committees are accountable; and
- There is more chance of coherence in conservation management strategies.

Within a Conservation Board framework, it was suggested that marine reserve committees, either sub-committees of the Conservation Boards or appointed committees as currently, could have delegated authority from the Boards to prepare management plans. The Conservation Board or Conservation Authority would have the power of approval.

Autonomous relationship

Approximately 15% of the respondents to this question thought that committees should be separate from the Conservation Boards, with varying views on whether they should answer to DoC or direct to the Minister of Conservation. One suggestion was that the Conservation Boards might be allowed to comment on but not interfere with committee activities (73). Another thought that the Conservation Boards should be responsible for implementing the reserve committee's decisions

Summary of Submissions

(5). Submissions that favoured independence from Conservation Boards variously argued that:

- Conservation Boards are not well known and therefore not the best mechanism for community liaison;
- Direct responsibility to the Crown addresses Treaty partnership better; and
- Conservation Boards are only land-based.

Another variation on this theme was that Conservation Boards should act at a regional level only and be confined to making recommendations to individual marine reserve committees (198).

It was suggested that Conservation Boards should be separate from reserve committees so the Board could be responsible for handling the marine reserve application process and the promotion of marine reserves but not the day-to-day management, which would be the responsibility of the reserve committees.

Representation was again raised. Several submitters thought it important for Conservation Board members to be on reserve committees, for reasons of continuity, benefit of experience and to aid communication. It was proposed that DoC should be represented on the committees for the same reasons, and it was even suggested that the chairperson of reserve committees should be a Conservation Board member (103). It was also suggested that Conservation Boards as well as committees should be widely representative, including iwi, commercial interests, and the public (151).

General relationship matters

There were a number of general comments about representation and process which were not necessarily linked to a view about status quo / autonomy. Several submitters stressed the need for information sharing and adequate co-ordination between Conservation Boards and reserve committees, also including DoC in the loop. The Conservation Board was also seen as having a role as liaison / link to other agencies on behalf of the reserve committees.

A formal framework, which sets down an annual number of meetings between the Conservation Boards and reserve committees, was suggested. At least one meeting per year, physically within the reserve area, was also suggested.

7.3 Public Access to Marine Reserves

More than 50 submissions contained comment on the question of public access, of which approximately two thirds were from the general / government / environmental NGO categories.

Of these submissions 70% favoured protecting public access rights along similar lines to the current approach so that members of the public could freely enjoy the marine reserve areas and gain awareness of marine reserve values. It was suggested that public access was also a means of gathering revenue through associated concession operations but that there should be no exclusive uses.

While favouring free access whenever possible, many submissions also thought that restrictions on access could be justified in certain situations, such as where scientific research was being carried out or where fragile areas were vulnerable to damage (inter-tidal zones and coral reefs were specifically mentioned) or where areas were suffering from over-use. Diving was mentioned as being one particular type of access that might need watching for damage to marine environments. The need to control boat use was mentioned by several submitters, who variously suggested speed limits, standards on buoys, and restrictions on anchoring to limit potential damage. It was suggested that there was a need to assess the potential risks and legal avenues of restrictions (157).

Several submitters thought that there should be some control over the use of land adjoining marine reserves so as to avoid adverse effects on the marine reserves. Specifically this included transferring management responsibility for adjoining beach reserves from local authorities to DoC, with a view to controlling activities such as vehicle, dog and horse access (134), and having the means to prohibit or control discharges and run-off into the reserves from both rural and urban land (90). Other suggestions included a prohibition of housing within 1 km of marine reserves and the power to prohibit land-based development. Conversely, a few submissions specifically opposed any restrictions on public access, vehicles, dogs or horses on beaches (for example 168).

Only one submission suggested that access should generally be restricted (for care-taking and monitoring purposes) and this appeared to be tied in to the concept of the reserve being tapu (28).

The protection of private property rights on land adjacent to marine reserves was also raised as an issue in respect of allowing generally free public access.

7.4 Concessions in Marine Reserves

Approximately 60 submitters responded to the question of whether or not concessions for non-extractive commercial ventures should be allowed in marine reserves. The majority of these respondents came from the general / environmental NGO / Conservation Board categories. Approximately 80% were in favour of allowing concessions. Of the just over 10% who were opposed to concessions, the commercial and non-commercial fisher categories were noticeably represented, in contrast to those in favour. A few other submitters suggested, as an alternative to concessions for the purely non-extractive commercial ventures, that fishing quotas could be managed in this way (91).

Reasons in Favour

A number of reasons were given for supporting non-extractive commercial concessions. Concessions were cited as a way of controlling potential pressure on protected areas and concession operators could help to monitor and control illegal uses (an honorary function role). It was also felt that concessions in the tourism / recreation line would assist with raising public awareness and appreciation of marine reserves. Money derived from the concessions could be used to cover some of the costs of reserve management, monitoring, and research. The economic potential of concessions could be used as compensation for recreational and commercial fishing opportunities that might be lost as a consequence of setting up marine reserves.

Reasons Against

Several submitters felt that a concession system would focus activity on the very areas that needed protection from use. Others thought that the marine reserves would attract tourist operators to such an extent that DoC would encourage commercial activities in marine reserves to cover costs and that this would be an incentive for more marine reserves to be created and enlarged at the expense of existing users. It was also suggested that formalising a concession system would open up claims for compensation from displaced commercial and amateur fishers. It was suggested that any kind of charge should not be imposed on anyone who works in and around a marine reserve, as a matter of principle. Another view saw concessions as potentially limiting public access to marine reserves because the public would end up paying through charges passed on and this would discriminate against sectors of the community.

Conditions

While the majority of submissions favoured concessions, many of them did so conditionally. There were many comments that strict rules would be needed and that

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the effects of commercial operations would need to be monitored and a system put in place to ensure that the values of the marine reserve and its objectives were not compromised. Many submitters mentioned tourism and recreational activities as being suitable or activities that related to the appreciation and enjoyment of the marine reserve values. Several submitters suggested that the concession system operated by DoC for land-based reserves would be suitable. There were several views on concession charges, including that:

- There should little or no cost to operators;
- Commercial operators should pay for the facilities they use through a license fee; and
- Marine reserves should not be set up to make money so a balance is needed between fair charges and the government covering its costs.

It was also suggested that customary use and granting of concessions to tangata whenua at the outset should be considered.

7.5 Enforcement

Over 50 submissions commented on enforcement and of these, 70% were from the General / Environmental NGO / Conservation Board categories.

The need for enforcement was clearly accepted by all these submitters, including those from other categories such as Commercial and Recreational Fishers and Maori, and the submissions instead focused upon ways to make it work.

Penalties

Penalties attracted the most comment. It was noted that offenders were aware that prosecutions were uncommon and several submitters highlighted the need for rigorous policing. Heavy penalties along with publicity of them were advocated as an effective deterrent measure. Several submitters thought that the penalties should be consistent with those of other conservation legislation such as the Fisheries Act (163, 142). A third of the submissions on penalties supported continuing or regular review of enforcement powers and penalties.

Rangers

The option to clarify the extent of rangers' powers was explicitly supported by 25% of the submissions on enforcement with several submitters also noting that rangers

Summary of Submissions

should have wider powers and recognised authority. Commercial operators within marine reserves were suggested as possible ‘honorary’ rangers.

Consistent rules

Several submitters felt that having variable rules between different marine reserves caused confusion amongst the public and that it would be better to have a consistent ‘no take’ rule throughout. It was also noted that there was potential for conflict where there was duplication of functions with different approaches to that of DoC – for instance, regional and district councils and Maori. One submitter thought that a multi-agency response was needed.

Cost and resources

Several submitters commented on the amount of cost and resources that adequate enforcement would entail and it was suggested that no more marine reserves should be allowed than there were resources to police.

Community involvement

Given the degree, to which community involvement attracted comment with regard to other issues such as reserve committee establishment, it was noticeable that this was barely mentioned in the context of enforcement. One submitter suggested that enforcement should be taken on jointly between the community and rangers but another noted concern about giving power to the community. If this was to occur, the submitter contended that the power should also be given to tangata tiaki and runanga (120).

7.6 Review of Marine Reserves

More than 80 submissions responded about review of marine reserves, of which over 70% came from the General, Environmental NGOs and Conservation Board categories.

In terms of changing marine reserve status, there was a range of views. The most consistent view, expressed by approximately 40% of these submitters, was that the review of marine reserves should be very difficult and the status of marine reserves be regarded as virtually sacrosanct, like national parks (for example, 4,17). Nearly all these submitters were in the General and Environmental NGOs categories.

Some submissions felt that, once granted, marine reserve status should continue in perpetuity but others considered that it should be possible to revoke it under certain

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circumstances. In general these would be circumstances where the reason for establishing the reserve were no longer valid, for some reason: outside influences that had downgraded the values within the reserve (25); or the reserve is found not to be fulfilling its purpose (237); or the needs of the community had changed (264).

Several of the Conservation Boards that made submissions were among the few submitters who explicitly favoured making review less difficult. Reasons given were that, as more marine reserves are established and more knowledge gained about their effects, it should be possible to review boundaries and the continued existence of particular marine reserves in order to rationalise the areas within a marine reserve (258).

Other suggestions included an initial review of progress after 5 years and then, once the reserve was well established, review every 20 or 25 years or through an initiated formal application process similar to applying for marine reserve status. Several submissions suggested a review every 25 years to allow for inter-generational changes. It was noted that the long time that it takes for natural processes to occur should be taken into account when considering a review framework and any changes of marine reserve status.

There was a general view that some process to review the progress of marine reserves would be useful, without this necessarily involving a change of reserve status. Such reviews would address the effectiveness of the management area and possible adjustments to boundaries, the effectiveness of the reserve committee, and how well the purpose of the reserve is being fulfilled and correcting any problems. Approximately 20% of the submitters on this question felt that there should be regular review of management plans for marine reserves but there was a range of views on how often. A number considered that a ten-year review period, similar to the Reserves Act, was a suitable time frame. One submitter noted that it was not clear how ‘take’ reserves should be reviewed, as they would have different objectives from pure conservation reserves (177).

Summary of Submissions

Appendix 1 – Numerical List of Submitters

1	Individual submission
2	Individual submission
3	Individual submission
4	Individual submission
5	Individual submission
6	Individual submission
7	Individual submission
8	Individual submission
9	Individual submission
10	Individual submission
11	Individual submission
12	Fiordland Ecology Holidays
13	Individual submission
14	Maritime Safety Authority of New Zealand
15	Okiato, Te Wahapu & District Ratepayers & Residents Association.
16	Feldman M.D.
17	East Harbour Environmental Association.
18	Individual submission
19	Individual submission
20	Individual submission
21	Auckland Underwater Photographic Society
22	Royal Forest & Bird Protection Society - Gisborne Branch
23	Marlborough District Council
24	Individual submission

25	Guardians of Fiordland's Fisheries Inc.
26	Royal Forest & Bird Protection Society - Kaikoura Section
27	<i>Attachment to submission 26</i>
28	Individual submission
29	Individual submission
30	Individual submission
31	Friends of Nelson Haven and Tasman Bay
32	Individual submission
33	Taiapure O Porangahau
34	Individual submission
35	Individual submission
36	Individual submission
37	Individual submission
38	Individual submission
39	Individual submission
40	Individual submission
41	Individual submission
42	Individual submission
43	Individual submission
44	Individual submission
45	Individual submission
46	Royal Forest & Bird Protection Society - South Waikato Section
47	Taranaki Regional Council
48	Individual submission

Summary of Submissions

49	Individual submission
50	Individual submission
51	Individual submission
52	Individual submission
53	Individual submission
54	Individual submission
55	Individual submission
56	<i>Duplicate</i>
57	Royal Forest + Bird Protection Society - Golden Bay Section
58	<i>Duplicate</i>
59	Individual submission
60	Individual submission
61	Individual submission
62	Individual submission
63	Little Barrier Island (Hauturu) Supporters Trust
64	Royal Forest & Bird Protection Society - Waitakere Section
65	Bay of Plenty Regional Council
66	Te Angiangi Marine Reserve Committee
67	Royal Forest & Bird Protection Society - Central Auckland Section
68	Geological Society of New Zealand Inc.
69	Individual submission
70	Individual submission
71	Waitakere City Council
72	Royal Forest & Bird Protection Society - Upper Coromandel Section
73	Individual submission
74	Individual submission
75	Barn Bay Fishing Company

76	Royal Forest & Bird Protection Society - Mid-North Section
77	The New Zealand Marine Transport Association Incorporated
78	Individual submission
79	Nga Motu Marine Reserve Committee
80	Southland Conservation Board
81	Individual submission
82	Royal Forest & Bird Protection Society - Northern Section
83	Whangateau Harbourcare Group
84	French Pass Residents Association
85	Individual submission
86	Individual submission
87	Individual submission
88	<i>Duplicate</i>
89	Eastern Bays Little Blue Penguin Foundation
90	Individual submission
91	Individual submission
92	Individual submission
93	Tararua Tramping Club Inc.
94	Individual submission
95	Lochmara Bay Residents Association
96	Taranaki/Whanganui Conservation Board
97	<i>Duplicate</i>
98	Royal Forest & Bird Protection Society - North Shore Section
99	<i>Duplicate</i>
100	Iwi Authorities of Taranaki (IAOT)
101	Auckland Regional Council
102	Otago Regional Council
103	Te Iwi O Te Roroa

Summary of Submissions

104	Individual submission
105	Individual submission
106	Individual submission
107	Individual submission
108	Individual submission
109	Individual submission
110	Christchurch City Council
111	Individual submission
112	National Council of Women
113	Wellington Regional Council
114	Individual submission
115	Royal Forest & Bird Protection Society- Wairarapa Section
116	Individual submission
117	Bay of Islands Charter Fishing Association Inc.
118	Royal Forest & Bird Protection Society - Napier Section
119	Mokomoko Whakatohea Iwi (Ngati tama hapu)
120	Te Taumutu Runanga
121	Individual submission
122	Individual submission
123	Individual submission
124	Individual submission
125	Royal Forest & Bird Protection Society - Rotorua Section
126	Individual submission
127	<i>Duplicate</i>
128	Individual submission
129	Individual submission
130	Royal Forest & Bird Protection Society- Wanganui Section

131	East Coast/Hawke's Bay Conservation Board
132	Royal Forest & Bird Protection Society - Eastern Bay of Plenty Section
133	Individual submission
134	Te Tapuwae O Rongokako Marine Reserve Committee
135	North Shore City Council
136	Individual submission
137	Individual submission
138	Individual submission
139	<i>Duplicate</i>
140	Individual submission
141	Environment Canterbury
142	East Coast Bays Coastal Protection Society Inc.
143	Opotiki District Council
144	<i>Duplicate</i>
145	Tourism Industry Association New Zealand
146	Individual submission
147	<i>Attachment to 197</i>
148	Individual submission
149	Whakatane Bird Rescue
150	Federated Mountain Clubs of New Zealand Inc.
151	Individual submission
152	West Coast Fishermen's Association, T. C
153	Individual submission
154	Individual submission
155	Individual submission
156	Individual submission
157	Bay of Plenty Conservation Board

Summary of Submissions

158	Nelson City Council
159	Individual submission
160	Individual submission
161	<i>Duplicate</i>
162	McDonald, G.
163	Northland Regional Council
164	Kapakapanui - Te Runanga o Te Awa ki Whakarongotai Inc
165	Individual submission
166	Individual submission
167	The New Zealand Seafood Industry Council
168	Individual submission
169	CRA8 Management Committee Inc.
170	Individual submission
171	Individual submission
172	South Otago Ngai Tahu Runanga Inc
173	The Waitemata Harbour and Hauraki Gulf Protection Society Inc
174	Individual submission
175	Royal Forest & Bird Protection Society - South Auckland Section
176	New Zealand Underwater Association
177	New Zealand Marine Farming Association Inc
178	Akaroa Harbour Marine Protection Society Inc.
179	Environment Waikato
180	Individual submission
181	Whitianga & Coromandel Commercial Fishers Association
182	Individual submission
183	Individual submission
184	Royal Forest & Bird Protection Society - Nelson Tasman Section
185	Individual submission

186	Nelson Underwater Club Inc.
187	Individual submission
188	Individual submission
189	Individual submission
190	Ngakau kotahi Branch Maori Women's Welfare League
191	New Zealand Rock Lobster Industry Council (NZRLIC)
192	Individual submission
193	<i>Duplicate</i>
194	Individual submission
195	Otago Conservation Board
196	Supporters of Tiritiri Matangi Incorporated
197	Individual submission
198	Individual submission
199	Chatham Islands Conservation Boards
200	Te Puke Forest and Bird
201	Individual submission
202	Individual submission
203	Long Bay - Okura Great Park Society Inc.
204	Sanford Limited Sustainable Seafood
205	Cheitenham Beach Caretakers
206	Individual submission
207	Te Ohu Kai Moana ToW fisheries Commission
208	WWF New Zealand
209	New Zealand Aquaculture Council Inc
210	New Zealand Oyster Farmers' Association Inc.
211	Individual submission
212	Individual submission
213	<i>Duplicate</i>

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214	Royal Forest & Bird Protection Society-North Taranaki Section
215	Wellington Conservation Board
216	Northland Conservation Board
217	Save the Otago Peninsula (STOP) Inc Society
218	New Zealand Marine Sciences Society
219	Individual submission
220	Te Runanga O Ngati Whatua
221	Auckland Conservation Board
222	New Zealand Recreational Fishermen's Council
223	Individual submission
224	Individual submission
225	Wellington Conservation Board
226	Te Runanga O Kaikoura
227	Individual submission
228	Wellington Botanical Society
229	Area 2 Inshore Finfish Company Ltd. Note: also included submissions from New Zealand Federation of Commercial Fishermen and New Zealand Paua Management Company Ltd.
230	Batten, P.
231	Thames-Coromandel District Council
232	Individual submission
233	Ngai Tahu Maori Law Centre
234	Individual submission
235	Individual submission
236	<i>Duplicate</i>
237	NZ Big Game Fishing Council
238	<i>Duplicate</i>
239	NZ Conservation Authority

240	New Zealand Historic Places Trust
241	Te Runanga O Whaingaroa
242	NZ Federation of United Seafood Interests Inc.
243	Individual submission
244	Gisborne Fisheries Ltd
245	Akaroa Harbour Recreational Fishing Club
246	Individual submission
247	Ngati Kahungunu Iwi Inc
248	CRA 3 Fishery Association
249	Tennyson Inlet Boat Club
250	Auckland City Council.
251	Te Runanga o Ngai Tahu
252	Individual submission
253	<i>Duplicate</i>
254	Individual submission
255	Individual submission
256	Individual submission
257	<i>Duplicate</i>
258	Waikato Conservation Board
259	Ngaruahinerangi Tauranga Waka and Fishing Reserves
260	Te Runanga O Toa Rangatira Inc
261	Hauraki Maori Trust Board
262	Individual submission
263	<i>Duplicate</i>
264	Option4.co.nz
265	West Coast Tai Poutini Conservation Board
266	Te Whanganui-A Hei Marine Reserve Committee
267	<i>Duplicate</i>

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268	<i>Duplicate</i>
269	<i>Duplicate</i>
270	Local Government New Zealand
271	Great Barrier Island Branch Forest & Bird Society
272	<i>Duplicate</i>
273	Environment and Conservation Organisation of NZ Inc
274	Royal Forest and Bird Protection Society
275	<i>Duplicate</i>
276	Individual submission
277	Deep and Meaningful Productions
278	Te Rawhiti Marae Committee

Late submissions

279 LATE	Nelson/Marlborough Conservation Board
280 LATE	Te Runanga o Ngati Whare Iwi Trust
281 LATE	Ngati Ranginui
282 LATE	National Institute of Water and Atmospheric Research (NIWA)

Appendix 2 – Alphabetical List of Submitters

Akaroa Harbour Marine Protection Society Inc.	178
Akaroa Harbour Recreational Fishing Club	245
Area 2 Inshore Finfish Company Ltd. Note: also included submissions from New Zealand Federation of Commercial Fishermen and New Zealand Paua Management Company Ltd.	229
Auckland City Council.	250
Auckland Conservation Board	221
Auckland Regional Council	101
Auckland Underwater Photographic Society	21
Barn Bay Fishing Company	75
Bay of Islands Charter Fishing Association Inc.	117
Bay of Plenty Conservation Board	157
Bay of Plenty Regional Council	65
Chatham Islands Conservation Boards	199
Cheltenham Beach Caretakers	205
Christchurch City Council	110
CRA 3 Fishery Association	248
CRA8 Management Committee Inc.	169
Deep and Meaningful Productions	277
East Coast Bays Coastal Protection Society Inc.	142
East Coast Hawke's Bay Conservation Board	131
East Harbour Environmental Association.	17
Eastern Bays Little Blue Penguin Foundation	89
Environment and Conservation Organisation of NZ Inc.	273

Environment Canterbury	141
Environment Waikato	179
Federated Mountain Clubs of New Zealand Inc.	150
Fiordland Ecology Holidays	12
French Pass Residents Association	84
Friends of Nelson Haven and Tasman Bay	31
Geological Society of New Zealand Inc.	68
Gisborne Fisheries Ltd	244
Guardians of Fiordland's Fisheries Inc.	25
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Individual submission	276
Individual submission.	61
Individual submission.	73

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Iwi Authorities of Taranaki (IAOT)	100
Little Barrier Island (Hauturu) Supporters Trust	63
Local Government New Zealand	270
Lochmara Bay Residents Association	95
Long Bay - Okura Great Park Society Inc.	203
Maritime Safety Authority of New Zealand	14
Marlborough District Council	23
Mokomoko Whakatohea Iwi (Ngati Tama hapu)	119
National Council of Women	112
National Institute of Water and Atmospheric Research (NIWA)	282 LATE
Nelson City Council	158
Nelson Underwater Club Inc.	186
Nelson/Marlborough Conservation Board	279 LATE
New Zealand Aquaculture Council Inc.	209
New Zealand Historic Places Trust	240
New Zealand Marine Farming Association Inc	177
New Zealand Marine Sciences Society.	218
New Zealand Oyster Farmers' Association Inc.	210
New Zealand Recreational Fishermen's Council	222
New Zealand Rock Lobster Industry Council (NZ RLIC)	191
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