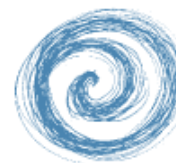


OCEANS POLICY

Feedback from Stakeholders

March – April



OCEANS POLICY

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Introduction

The Oceans Policy Secretariat released 11 draft working papers for comment to Oceans Policy stakeholders on 14 March 2003. Three meetings were held in Auckland and Wellington, on 24th, 25th and the 28th March and a hui was held in Wellington on 27th March. The Secretariat received written responses from 31 stakeholders on the papers. This document is a summary of those responses and of the feedback received at the stakeholder meetings.

This paper complements the 11 draft working papers and should be read in conjunction with them. The Secretariat has decided not to revise the papers; however the feedback summarised in this document is being used in the formulation of the draft Oceans Policy, which will be released prior to public consultation in October 2003.

Executive Summary

Summary of general comments on all of the working papers

- The current system is quite confusing. It may be difficult to explain what an Oceans Policy will do, without more explanation of the current oceans management system.
- There are many formal processes (such as rules that are enforced under the Maritime Safety Act) outside the territorial sea that the summary paper did not acknowledge.
- Some very important issues were not mentioned in the working paper summary, for example, issues around rights and responsibilities in the marine environment. Nor were some subjects discussed in the working papers, for example, the enforcement of policies and issues around commercial transport.
- To really engage with the issues, the working papers would have benefited from a greater level of detail.
- The language used is very important in order to prevent misconceptions.
- Sometimes the working papers seemed to reach conclusions without a full investigation of the options.
- There is general agreement that the coordination of agencies is very important, particularly between local and central government.

Summary of comments on Working Paper One: Information Issues

- Key information gaps need to be filled in a strategic way, by asking the right management questions. It is important to involve scientists in this process because they understand the practicalities of research. It is also important that decision-makers acknowledge that they know little about the marine environment.
- The information requirements of iwi as decision-makers are important. Information needs to be in an accessible form, and tangata whenua should be able to participate in the information-gathering. The legitimacy of Mātauranga Māori should be respected.
- Key tools to promote information standardisation and sharing are already being developed. They need to be kept in mind when designing an Oceans Policy.
- Commercial intellectual property issues need to be resolved, particularly those that relate to Crown Research Institutes (CRIs).
- Good information must be available to all who participate in decision-making processes, not just the ultimate decision-makers.

Summary of comments on Working Paper Two: Ocean Use Rights

- Treaty issues were not discussed in the paper. They should be an important part of any discussion of interests in the marine environment.
- Some assumptions in the paper were not backed up by evidence.
- Consideration of conflicting uses is difficult. There are a variety of different views on how to set priorities in this area.
- There are conflicting views about whether recreational and commercial fishers should pay additional fees or not, and whether coastal occupation charges are a good idea.
- There is agreement that the definition of rights and responsibilities in the marine environment needs to be clearer.

Summary of comments on Working Paper Three: Māori and Oceans Policy

- The issues facing Māori were not covered well in the paper. The key issues are:
 - lack of resolution of ownership of seabed issues
 - Māori believe they should be controlling the resources, rather than being consulted about those controls.
- Māori are a treaty partner and not a stakeholder.
- Determining the nature and extent of the rights and responsibilities that the Crown and iwi hold pursuant to Articles I and II of the Treaty of Waitangi respectively is a necessary prerequisite to developing an Oceans Policy.

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- The principles of the Treaty of Waitangi need to be defined.
- More acknowledgement is needed of the status of iwi as decision-makers.
- Maori should have better participation in the decision-making process and should be involved in working groups at the Ministerial and officials level.
- Local government is not accountable to tangata whenua. Oceans Policy needs to recognise that local government is a crown agent.
- Many Maori are very concerned by the lack of Treaty obligations on local and regional authorities.
- There are problems with some customary management tools. They are difficult to implement and are not holistic management tools.

Summary of comments on Working Paper Four: Environmental issues

- The focus of the paper was too utilitarian. Missing were issues such as exploration of different thresholds of human activity and natural resources.
- Some form of weighting is needed towards activities that generate value in the least extractive or exclusive manner.
- Taking a precautionary approach is very important.
- The Department of Conservation's (DoC) role in the Resource Management Act (RMA) decision-making process for the coastal area would appear to be at odds with the conservation philosophy that the department operates under.
- Views are polarised on the quota management system and more discussion is needed.

Summary of comments on Working Paper Five: The Land-Sea interface

- The paper seemed so focused on the Resource Management Act that it overlooked the Conservation Act or National Parks Act.
- There are many problems concerning the implementation of the Resource Management Act and the societal pressures that act upon the process. If the community wants to maintain the existing coastal environment, hard decisions will need to be made.
- It is critical that there is much stronger, timely, central direction to guide coastal management, particularly in relation to the identification and protection of significant natural coastal areas.

Summary of comments on Working Paper Six: Marine Biosecurity

- It is important that Oceans Policy and the Biosecurity Strategy work together. National coordination of biosecurity issues is critical.
- Recognition should be given to kaitiakitanga and its relevant contributions to current environmental management and biosecurity management.
- The current focus of biosecurity should move from protection of primary production to a better balance that includes tāngata whenua values. Decision-making criteria should have taonga, including mahinga kai, as a major consideration.
- All New Zealanders need to be educated on marine biodiversity, kia ora tonu te mauri o nga moana. Kia ora tonu nga tamariki o Tangaroa. All sea users should report changes of flora and fauna to government agencies and iwi.
- It is unclear what roles different agencies play in protecting marine biosecurity, and whose responsibility it is.

Summary of comments on Working Paper Seven: Marine Cultural Heritage

- The Resource Management Act already allows for protection of Maori heritage as a matter of national importance. The problem is uptake of this by councils.
- The protection of marine cultural heritage by councils is uneven.
- More tools are needed to protect marine cultural heritage, and analysis is needed to see whether current tools such as marine reserves can be adapted.

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- One of the most important issues is the lack of resources available to the Historic Places Trust to be involved in resource management processes.

Summary of comments on Working Paper Eight: Participation in Oceans Management

- There are more tools for enabling effective participation than the paper mentioned. For example, public participation at roundtable conferences, pre-hearing and on site meetings produce more immediate resolution than formal hearings.
- Information needs to be targeted at groups which pose particular threats to the sustainability of oceans.
- A clear distinction must be made between the interaction of iwi and the Crown as Treaty partners, and opportunities for public input. The paper did not make the distinction clear.
- Public participation in decision-making is important, however drawn-out consultation processes can lead to cost increases that cannot be justified.

Summary of comments on Working Paper Nine: Adapting to Future changes

- The paper did not mention Treaty issues and how they will be taken account of.
- Climate change may have unforeseen impacts. It is difficult to plan for them when information is uncertain.
- Tourism is an important component when looking at future issues. This needed more emphasis in the paper.
- The paper did not make it clear that more processes are needed in the exclusive economic zone (EEZ) at the moment.

Summary of comments on Working Paper Ten: Encouraging New Opportunities in the Oceans

- The working paper only focused on future *economic* opportunities.
- There should be a cultural component to impact assessment.
- Shipping issues were not properly explored in the paper.
- There are important economic uses in the ocean, such as energy generation, shipping and submarine [power and communication??] cables, that should not be compromised.

Summary of comments on Working Paper Eleven: International Oceans Issues

- The process for implementing international conventions within the territorial sea is unclear.
- There are issues around who can participate in international negotiations. At the moment Maori and non-governmental organisations are not able to do so effectively.
- Emphasis should be given to honouring the Treaty of Waitangi.
- There was inadequate analysis of the various international regimes and laws which apply to New Zealand, what effect they have on our domestic legislative and management regimes, and how they are given effect to.

General comments on the working papers

- There was no discussion about the enforcement of ocean rules in the working papers.
- The papers should have used the word 'value' as well as 'use', as the latter has meaning in an extractive as well as a consumer sense.
- The papers should have talked about 'allocative mechanisms', 'user rights' and 'stewardship', because these concepts are readily understood.
- The papers should have acknowledged aspects of the existing regime which work well and should be maintained and which could provide the platform for future management.
- The papers did not explain the policy principles behind the legislation. For example, the ocean was referred to as 'a commons', but some Maori believe otherwise.
- Commercial transport was not referred to. Was this because there are no issues around transport? Did ferry companies, cruise ships and charter boat companies provide input to the papers?
- The papers were so heavily summarised that it was difficult to usefully engage with the material. They also provided little indication of the significance or urgency of the problems identified and, therefore, did not indicate where resources might best be focused. The high level of discussion the papers are likely to generate may not be altogether helpful in progressing the formation of an Oceans Policy.
- Discussion on the policy should have a section on the overall context of what 'the ocean as a resource' comprises, and the 'natural capital' it provides (eg, biodiversity, space, water, and air).
- The public needs to be informed about how the current system works before any discussions about what an oceans policy could achieve.
- The policy needs to explain what current management solutions and strategies are. For example, strategies are already in place to deal with by-catch that were not described in the working paper on environment issues.
- The Oceans Policy Secretariat should have expanded the papers to include more substantive information on the problems, their significance and urgency, and possible ways of addressing them, as a more constructive basis for engaging stakeholders.
- The papers are useful because they condense what people already know into a manageable form. However, the level of the papers varied with some on a 'mezzanine' level and others on a much higher level. They also focused on the environmental elements of marine management rather than social or economic elements.
- The stocktake document had some serious flaws including misunderstandings, factual errors, and there was no discussion of some extremely important legislation, for example, the Submarine Cables & Pipelines Protection Act; and exclusion zone regulations for offshore installations under the Continental Shelf Act.
- Some phrases in the papers were unclear and needed to be better defined, for example, 'sustainable development' (as opposed to sustainable management) and 'public good'.

Exclusive economic zone

- Are conflict resolution processes for the exclusive economic zone necessary now or in the foreseeable future? The only major problem that might occur would be the passing into law of the new Marine Reserves Act in its current form.
- Clear principles for the allocation of space in the exclusive economic zone need to be established in case competition for space increases in the near future.

General Resource Management Act issues

- A comprehensive review of the Resource Management Act is considered necessary. Oceans Policy should be part of this process, and should not institute amendments relating specifically to resource management before the comprehensive review.
- The papers seemed to be adopting a 'marine Resource Management Act' approach, yet there was no discussion about the limitations and consequences of the 'first in first served' approach of the Resource Management Act. The papers should have

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considered the 'best' allocation or use of a resource (where preservation, protection and rahui are also legitimate allocations) independent of the current system.

- There is no guidance from central government to local government about how to value public space. Councils are taking an ad hoc approach to this issue across the country, but it is a national issue.
- The 'national interest' is often difficult to judge. An Oceans Policy needs to acknowledge that local interests are often given greater weight than national interests when local authorities make decisions.
- There needs to be better integration between stakeholders, international law and domestic policies, within the Resource Management Act framework.

Sustainable development

- Both economic and environmental issues need to be carefully examined in order to achieve sustainable management outcomes.
- Oceans Policy is about sustainable development, however, there was no real sense in the working papers that future needs are being taken into account.

Comments on the working paper summary

General comments on the paper

- The current uncertainty about rights and responsibilities in the marine environment is a central issue that warranted mention in the working paper summary. This can only be addressed, by an examination of the Treaty basis of all rights and responsibilities.
- At the local level, some of the hard decisions cannot be made because politicians are often unwilling to make them for political reasons. For example, politicians do not like to prevent the building of seawalls (which increase erosion).
- There are many formal processes outside the territorial sea. The Maritime Transport Act sets out requirements for marine dumping, discharges from shipping and offshore installations. These require far greater recognition among stakeholders to prevent misunderstandings.

Coordination of agencies

- Lack of coordination seems to be the main issue in oceans management. This is due to devolving responsibility to local government where local politics can detract from achieving a consistent outcome.
- There is not enough evidence that there are statutory gaps that need to be addressed, however, there is a need to coordinate existing oceans management (particularly beyond the territorial sea).
- There needs to be far greater coordination between central and local government. The Oceans Policy needs to clarify what the roles of both central and local government are. Decision-making processes need to be transparent and statutory gaps closed.

Comments on Working Paper One: Information Issues

General comments on the paper

- Information requirements need to be pragmatic and reasonable, known issues should not be relitigated.
- All users of ocean resources should be monitored. The cost and difficulties of achieving this in some circumstances will be high, however, the cost (or risk) to the long-term sustainability of our oceans of not monitoring is also high. Monitoring costs should be recovered from the resource users who benefit directly from the use of those resources.

Key information gaps

- No particular agency is responsible for maintaining first order benchmarks. In a tectonically active country such as New Zealand, regular re-surveys are needed, so that practitioners can manage coastal hazards and inundation effectively.
- The Foundation of Research Science and Technology has given limited support for the collection, interpretation, and application of remotely sensed data. This has made the issue of ownership of the information difficult. This aspect of NIWA's (National Institute of Water and Atmospheric Research) activities is verging on being unviable.
- Paragraph 23 made clear statements about gaps in existing information. It is considered regrettable that the strategic portfolio development process has to take so much additional time when gaps have been flagged for some years. Although the issues about weighing competing priorities (discussed in paragraph 42) are important, there is concern that the development of a priority-setting process and bureaucratic processes will add to the delays. There seems to be no sense of urgency in addressing information shortfalls, yet throughout the working papers, information needs were emphasised repeatedly.
- There needs to be a better exchange of information between management agencies and industry sectors so that the former can be in a better position to plan for 'gold rushes' on coastal resources. The sharing of information can be compromised because of the competitive nature of the industry.
- When paying for marine research, decision-makers often do not start with the right questions. Scientists need to be involved early in defining the management questions and what is 'know-able', and setting priorities for data collection. Often decision-makers ask for information without thinking through how it will be used.
- The priority-setting process for scientific research is currently conducted at a ministerial or departmental level. Scientists need input in the priority-setting process early so that priorities are set correctly. This could be the biggest issue that Oceans Policy needs to tackle.
- Government research funding seems to be politically rather than logically driven to the severe detriment of any robust management regime for our oceans.
- There is a Marine Science and Technology Plan within the framework of the Australian Oceans Policy. New Zealand should follow suit and form a similar policy to address this serious information issue.

Information for iwi

- The paper espoused the importance of good information to make good decisions while stating that it is acceptable to provide for iwi rights and interests in the oceans in the absence of good information about the nature and extent of such rights and interests.
- Information needs, priorities and expectations of iwi as decision-makers were not covered in the paper, and should have been.
- Information is often available through technologies that are not generally accessible to iwi (eg, the internet). This excludes iwi from participation in the system and from the benefits of the information.
- Data must be accessible to tāngata whenua to enable more effective participation in decision-making processes. The data should also be available in more accessible

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forms (eg, less technical or academic language, and in a range of mediums, not just websites).

- Reference to 'indicators' needs to acknowledge that there is no standardised approach to iwi indicators. The monitoring capability of each iwi will vary.
- Tāngata whenua should be able to participate in determining future research topics and participating in the research itself wherever possible. Specific funding for Mātauranga Māori research and procedures and policies should be developed to ensure this information is incorporated into decision-making processes whilst protecting intellectual property.

Legitimacy of Mātauranga Maori

- Mātauranga Maori should be acknowledged as more than an informal source of knowledge.
- Information outcomes presume the primacy of western science knowledge, and relegate Mātauranga Maori to the status of 'informal observations'.
- The paper makes passing reference to "Mātauranga Maori" but does not explore the real value of information gathered through generations of interaction with resources. Iwi resource managers continue to gather information that should be considered in this discussion, including, for example, records collected by tangata tiaki/kaitiaki in their administration of customary fishing.

Environmental education

- The impact of commercial fishing on target species is a big issue. In particular, iwi and recreational fishers both blame the degradation of local fish stocks on a perceived increase in commercial fishing. The more information available to community groups and stakeholders, the fewer misunderstandings will be held.
- Environmental education is imperative to creating trust in sharing data.

Key information tools

- The development of a meta-database for coastal and oceans information would assist data and information-sharing and go some way to prevent duplication. A freshwater information directory has already been developed by the New Zealand Hydrological Society with sustainable management funding. A similar database could be developed for coastal and oceans areas. The ongoing maintenance of these databases should rest with central government. Good access to information is needed to develop sound policy at national and local level.
- Indicators will require improved capacity and resources among agencies responsible for implementing them. Perhaps universities and polytechnics do not have a strong enough focus on marine-coastal issues, given the apparent shortage of marine trained scientists.
- Key roles for the Oceans Policy should be:
 - to promote the establishment of monitoring regimes for marine environment indicators
 - the supply of indicators information for use at a national level
 - the promotion of data quality standards
 - the negotiation of information-sharing protocols for marine information.
- There is misinformation from the fishing industry on by-catch when human observers are unable to be present because of lack of room on boats. Electronic observers could collect data (eg, by using digital cameras or an electronic set counter).
- The development of the Ministry for the Environment's (MfE) Environmental Metadata Framework would seem to be the ideal vehicle through which to promote the sharing of information about the oceans.

Intellectual property issues

- Commercial intellectual property issues need to be resolved, particularly those relating to Crown Research Institutes.
- The corporatisation of government science providers who inevitably wish to protect data information in order to protect their funding and financial performance is a huge issue. This may be resolved by amending the objectives of the CRIs and/or amending the funding model used by central government science policy and funding agencies.

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Managing in the face of uncertainty

- It is difficult to imagine how much we don't know about the marine environment. About 70 percent of species under the sea have not yet been identified. How can we try to manage human impacts on the environment in the face of such uncertainty? We end up only trying to manage problems that we think might exist. The more information we have about the marine environment, the better we can try to manage human impacts on it.
- The crayfish population at Leigh Marine Reserve has increased 27 times since the reserve was opened, and 200,000 people visit the reserve a year. These are both quite phenomenal and unexpected figures which illustrate how much we don't know about the marine environment.
- Too much weight is put on 'information' and 'databases' especially when their absence or inadequacy are the reasons given for not implementing timely policies based on existing knowledge.

Use of information in decision-making

- The paper's conclusion that 'accurate, well-framed questions that incorporate how the information (new or existing) is to be used in management decision making, is the cornerstone of good decision-making', should have been emphasised.
- A problem with focusing on data is that this may be 'undigested' and policy analysts may not know what to make of it – interpretation is the key. Many decisions concerning management of the marine environment can be made now, if scientists are actively engaged in the policy process to interpret existing data so that it can support decision-making.
- If certain 'information' is deemed to be too little, before a decision is made to collect more, a number of questions should be asked and answered: How is this information to be used? Who physically will use it? Will a better decision be made because of the acquisition of this information?
- Is it data sets that are needed or a level of integrated analysis and understanding of a particular issue? Scientists should be engaged to decide how a good policy outcome might be achieved. For example, using a habitat mapping exercise:
 - use multi-beam data alongside a sampling programme to check whether or not each habitat type has a particular assemblage of animals
 - extrapolate, on a statistical basis, the distributions of the fauna
 - decide what is required to protect particular types of habitat because they are limited in extent and under threat.

Access issues

- Good information must be available to all who participate in decision-making processes, not just the ultimate decision-makers. However, much of the discussion in the paper appeared to focus on the information needs of decision-makers in central and local government.
- It can be very hard to get vital information, and the only data that can be found are usually in a very raw and incomplete form. Interpretations can vary significantly depending on how the data have been manipulated and modelled. There is a need for all stakeholders to compare the same information, and not at a price that will exclude some parties.
- Some information can also be very hard to get hold of, for example, trying to locate customary fishing boundaries from information that is apparently held by the Maori Land Court. Maori in particular find it difficult to access and benefit from current information sources.
- Full and genuine commitment to developing effective information is needed to prevent 'walling off' of activities and information.
- Insufficient attention has been paid to bringing the New Zealand public along with the developments and changes in legislation and decision-making processes so that we can all take better care of oceans as a community.

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- Better collaboration is needed between science and information providers, for example, between Crown Research Institutes, universities and other research agencies.

Information sources

- The relative effects of different protection tools, for example, taiapure, mataitai and marine reserves on the marine environment are not known.
- The paper should have referred to biodiversity databases and biological specimen collections housed in Crown Research Institutes and museums. These information collections are the fundamental libraries of data for recognition and inventory of native and introduced organisms.
- There are serious public good issues associated with the Crown Research Institutes. Where there is a scarce skill held exclusively within a single CRI, there are problems with access for the general public. There are also serious questions about whether the best advice is being made available to government. Crown Research Institutes are obligated to act competitively and within a business model, yet this is not an appropriate operating model when dealing with organisations that are the sole repositories of particular information or skill sets. Two issues are intertwined here:
 - the capability or capacity of the country (the sheer numbers of individuals who have the required skills)
 - the competitive business model for information-gathering versus a public good model.
- NABIS (National Aquatic Biodiversity Information System) is still at a very preliminary stage. The paper made it sound as if development is progressing well, yet so far very little has been done and it is certainly not yet available for decision-makers.
- All knowledge about the marine environment is valuable.

Information and research needs

- Important areas for future research are:
 - the land/sea interface
 - impacts of land-based activities on this ecosystem
 - accelerating impacts of climate change on the wider marine environment.
- Government needs the best knowledge possible for decision-making. Recognition is needed of the difference between the short-term research required to meet information needs for operational management and the long-term research projects and underpinning science which provide information on which sound decisions will ultimately need to be based.
- Research projects need to be careful about their impacts and that the research-gathering is not limited by foregone conclusions.
- More research is needed into coastal marine hazards.

Monitoring and indicators

- The environmental indicators programme is an essential tool in the monitoring of the marine environment.
- The investigation of 'indicators' of environmental states is endorsed (the use of the word 'performance' is difficult to interpret) although they must be rigorously evaluated before any monitoring begins. It is considered slightly disturbing that the set has already been agreed, but based on what? How will these 'indicators' be used and who will use them?
- The environmental indicators programme is a very preliminary tool, with many inherent weaknesses. Databases are only as good as the data entered, significant developments and new knowledge need to be acquired and added. Care is needed not to overstate competencies and capacities. The indicators programme is at a very early stage.

Funding and capacity

- The ability to fill data gaps is shrinking by the year. The Foundation for Research Science and Technology funds NIWA programmes on marine biodiversity and ecological processes. The government will lose about 18 percent of its purchasing power between 1995/96 and 2004/05 unless new funds are put into this area. The

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erosion of purchasing power has occurred because the programmes and objectives have been last in the queue to be 'advanced' at the Foundation of Research, Science and Technology.

- If the emphasis goes on 'understanding' rather than the large and increasing costs of data collection and management, the whole issue of information does not loom so large.

Other suggestions

- Explain who the 'Marine Biodiversity Coordination Group' is.

Comments on Working Paper Two: Ocean Use Rights

General comments on the paper

- Coastal uses are varied and in many cases can be predicted. The erosion of public amenity values could be described as a failure in effects-based planning.
- Territorial authorities usually provide services such as boat ramps, not regional councils.
- The paper talked about 'the absolute protection of marine mammals, which delivers on a social value not to harvest marine mammals'. When and by whom was this set of values debated and adopted? Oceans Policy provides a timely opportunity to test assumptions such as these.
- Decisions on the use of our oceans and coastal marine areas should, as far as possible, come under the umbrella of one body which is required to balance local and national interests and to ensure consistent decision-making.
- The paper discussed the public and stakeholders, but it did not refer to Maori.
- The rights paper mentions zoning under the Resource Management Act but bylaws are more likely to be used.

Treaty issues

- The paper considered use rights of the public and stakeholders but excluded any consideration of rights afforded to iwi under Article II of the Treaty, this is of serious concern.
- This paper considered the resolution of conflicts between competing user groups. The Crown's priority should instead be the active protection of the use and ownership rights of tangata whenua. The only exception to this is where the Crown can justify, for environmental sustainability reasons, exercising its Article I obligations, and then the Crown should provide compensation.
- Use rights should be specified, to protect tangata whenua values and rights as well as for wealth creation and environmental stewardship.
- The paper highlighted the need for a comprehensive framework to provide for both the rights and responsibilities protected by the Treaty (Article II) and those conferred as a result of the Treaty (Articles I and III). The paper's cross-reference to *Working Paper Three: Maori and Oceans* is inadequate, because that paper made no reference to such rights.

Conflicting uses

- Recreation conflict on the water can be managed by local bylaws and proper enforcement.
- It is unclear why the reference to increasing numbers of tourists is listed under 'Conflict among existing uses', because it is not clear from the statement what other public use increasing numbers of tourists conflicts with. The issue is management of tourist numbers, their impacts on the marine environment, and tools to address perceptions of overcrowding and devaluing of the experience. If not managed appropriately, these issues could lead to conflict between visitors and residents in an area. Visitor numbers are increasing (an extra 33 million visitor nights are forecast by 2008), however, it is important to note that this includes both domestic and international visitors, with domestic visitors making up the majority of nights.
- The need for any process to reconcile potential conflicts between activities, should encompass some form of weighting towards activities that have least impact on the marine environment and on other users.
- The problem is not just 'conflicts between competing users' but also 'lack of clear frameworks and processes to resolve such conflicts.'
- It is important to recognise the potential conflicts between existing or new uses of the coastal environmental and existing or new use on land. One example is the potential conflict between marine farming and terrestrial activities that cause deterioration in water quality.
- There are some examples of exclusive rights that, in the public interest, should be retained. An example is the cables across Cook Strait that are essential for the

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secure operation of the national grid. These exclusive rights should not be traded off against any other competing interests.

- There is little or no integration between the statutory regimes and no way of reconciling competing uses. There is no provision for a strategic approach to determining where various uses should occur. It is worth noting that, for all its faults, the proposed law reform in relation to aquaculture attempts to establish such a strategic approach to determining where aquaculture can and cannot occur.

Setting priorities for use

- A missing attribute that could enhance wealth creation is the lack of means to identify and prioritise activities that maximise wealth creation over those that are less profitable.
- Paragraph 33 stated that existing processes are not fair because they provide no mitigation to existing users when a new use is introduced. This is precisely what the Marine Reserves Bill will do unless it provides compensation.

Charging

- Recreational fishers should pay a licence fee like fresh water fishers to help finance inspections.
- The cost recovery levies and employment the fishing industry provides are public returns.
- Coastal occupation charges are one method, to improve the efficiency of coastal allocation. One of the major issues that we consider in preventing the implementation of occupation charges is the lack of central government guidance.
- The paper needed a discussion of charging in the coastal area. There is currently some cost recovery in place in fisheries management, but there are questions about whether the fisheries companies adequately compensate the public. The cost of administering the fisheries management system is recovered, but the companies do not pay for the use of the public resource.
- The oceans are always referred to as a commons, but where is this written down? It reflects international law, but is not stated in New Zealand law anywhere. How do we charge for the use of the public commons? There should be a common agreement about how to compensate the public for the loss of public space across different activities.
- Fisheries companies do have to pay for quota, this did not seem clear in the rights paper.
- What, if any, distinction is intended between the absence of public return for exclusive uses that are extractive and those that are non-extractive? The paper seemed to assume a public return will only be considered for exclusive private uses, but if this is the case, it needed to be made clear. A number of public or not for profit recreational uses can also be exclusive to some extent, for example, jet skiing, yacht racing, recreational fishing. The impact on the marine environment or the degree of exclusion of other uses may need to be considered. For example, a marine farm will permanently exclude all public uses, whereas a ferry lane only excludes other uses at specific times of day.

Definition of rights

- Rights need to be defined more clearly as use of the oceans increase. Not only what rights enable, but the limits to rights. Rights that are given need to avoid pre-empting opportunities for other activities. The fisheries versus aquaculture debate is about rights: what rights are conveyed by individual transferable quota and what rights are not.
- Where non-governmental organisations are involved in defending public rights, or are seeking to preserve qualities that legislation appears to guarantee (eg, the Resource Management Act and the references to matters of national importance), transaction costs can be a barrier to their involvement, particularly where parties resort to court processes.

Comments on Working Paper Three: Maori and Oceans Policy

General comments on the paper

- For the most part, Maori participants in Stage One cannot see any evidence of their perspectives in the vision statement.
- In this stage of policy development, it is imperative that the Crown commit to a longer process. It is not possible to determine the nature and extent of rights by June 2003.
- The issues facing Maori were not covered well in the paper. The main issues preventing Maori from successfully engaging in consultation are:
 - lack of resolution of ownership of seabed issues
 - Maori belief that they should be controlling the resources, rather than being consulted about those controls.
 - the role of Regional Councils in the management of the coast.
- The papers should have addressed kaitiakitanga and its relevance to the environment, the land-sea interface and biosecurity.
- Oceans Policy must take into account all the different reviews currently underway, for example, aquaculture, marine reserves and Oceans Policy. Many issues are generic among the different reviews.
- The paper focused on process rather than outcomes.
- Kaimoana is one of the last resources for Maori.
- In the territorial sea:
 - kaitiaki can extend to 200 nautical miles
 - some settlement obligations extend beyond the territorial sea.
- Marine reserves may not always be in the best interests of tangata whenua groups.
- Maori culture and values should be reflected in the management of our oceans. Maori culture is a unique aspect of New Zealand, recognised when marketing New Zealand as an international destination. Visitors to New Zealand value the inclusion of Maori cultural interpretations and experiences in tourism activities.
- How can agencies carry out their statutory obligations when many officials are not familiar with the Treaty of Waitangi principles?
- The stocktake report should have assessed how responsive current management tools are to Maori.
- The papers were more focused on the means rather than the ends and on the needs of central and local technocrats rather than the needs of Treaty partners.
- Responses to the issues outlined in other working papers should make explicit provision to the needs, priorities and expectations of iwi.

Fisheries issues

- The objectives set out in the draft MFish (Ministry of Fisheries) Treaty Strategy are admirable, in particular, the commitments to working in partnership with tangata whenua to meet the purpose of the Fisheries Act, and to ensure tangata whenua have full responsibility for managing customary fishing within their rohe moana. However, MFish has not fully consulted with iwi. It has stated that it will not recognise and provide for the input and participation of tangata whenua into the broader fisheries management processes in accordance with section 12(1) of the Fisheries Act until it has finalised its Treaty strategy. Decisions are currently being made without Maori input.

Participation in Oceans Policy development

- The issue of indigenous rights is extremely important to all Maori and all attempts to rush the process are unjustified transgressions of indigenous rights. Maori have an acknowledged right to participation, as Maori, in the formulation of all laws that affect them. The oceans are no exception.
- The Treaty should be the basis of any Oceans Policy. Article II means that 'stakeholders' should not be given rights ahead of Maori. (Stakeholders are represented by the Crown). Stakeholders should not be involved when Maori claims have not been settled.

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- Information gathered during discussion with Maori needs to be relayed to the Minister of Local Government, as it is local government that implements most policies that impact on Maori.
- Ministers need to hear the concerns of Maori *kanohi ki te kanohi* rather than having to go through officials.
- Maori should have better participation and be involved in working groups at the Ministerial and officials level.
- A reference group with representation from iwi is needed. This must have more than an advisory capacity. It must have governance, managerial and operational control.

Resource Management Act issues

- Local government is not accountable to tangata whenua. Oceans Policy needs to emphasise that local government is a crown agent.
- The New Zealand Coastal Policy Statement (NZCPS) needs to reflect Maori concerns.
- Transfers of powers under Section 33 of the RMA have not happened because there are too many 'hoops' for iwi to go through.
- It is too easy for people with money to get consents and then they do not necessarily respect the concerns of Maori.
- There should be compensation for the community for loss of resources and space.

Governance issues

- The paper's conclusion that:
'historical Treaty settlements' and 'incorporation of the principles of the Treaty of Waitangi in natural resource management policy and/or legislation' along with 'practical tools that have been developed to involve Maori and incorporate their views ... provide the building blocks for constructing an Oceans Policy that takes careful account of the interests of Maori at all levels'.
is not a valid conclusion, because current tools are inadequate.
- The Treaty of Waitangi guaranteed tangata whenua full, exclusive and undisturbed possession of all their taonga, including fisheries and other resources in the rohe moana in relation to which they held manawhenua, manamoana. Those rights endure today, except to the extent that they have been extinguished or modified with the consent of the owners. The Crown has an obligation under the Treaty actively to protect those rights and provide for their enjoyment to the fullest extent possible.
- While Treaty-guaranteed rights of Māori in relation to fisheries were conclusively settled in 1992, such rights and responsibilities in relation to the marine environment extend well beyond fisheries. In recent years, iwi of the Marlborough Sounds have sought recognition of their ownership of the foreshore and seabed through the Māori Land Court. (The case has been held up by a jurisdictional dispute and is currently awaiting a decision by the Court of Appeal.) They have also sought recognition of their particular interests in the activity of marine farming in the Environment Court (also awaiting a final decision). Other iwi, including Hauraki iwi and Ngāti Kahungunu, have argued their interests in oil, gas, gold and other minerals found in marine environments before the Waitangi Tribunal.
- Determining the nature and extent of the rights and responsibilities that the Crown and iwi hold pursuant to Articles I and II of the Treaty of Waitangi respectively is a necessary prerequisite to developing an Oceans Policy. Attempting to build an Oceans Policy without establishing this solid foundation will inevitably produce an imperfect outcome that will not only be in breach of the Treaty, but will not serve the nation well. In particular, future development of marine resources will continue to be hampered by challenge and uncertainty if basic questions of ownership are not resolved once and for all.
- From the Maori perspective, it is simply not possible to divorce the discussion of 'ownership' and 'rights' from that of 'management' and 'responsibilities'. In this, the idea that Maori did not have a concept of ownership has been misunderstood and misused. It would be more correct to say that there is no traditional conception of ownership independent of kaitiakitanga. Kaitiakitanga encompasses a broad range (or bundle) of rights and responsibilities to people and resources, of which

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'ownership' is one facet. Moreover, it denotes an active relationship, one which cannot be theorised, only lived.

- Maori rights are not synonymous with Treaty of Waitangi rights. Such thinking is incorrect and unhelpful. Maori also have indigenous rights under English common law, fully applicable in New Zealand and it is now established that such rights can only be extinguished by specific statutes of Parliament and with the specific consent of the indigenous rights holders, the Maori people.
- The treaty was, and still is, for the benefit of all people and not exclusive to Maori.
- All discussion of the futility of trying to ignore or gloss over fundamental Treaty-guaranteed rights and responsibilities in favour of Maori 'interests', 'issues', 'values' and 'perspectives' came to a head in the paper. Simply put, there can be no consideration of 'Treaty issues' and 'Maori interests' without consideration of the whole raft of rights and responsibilities of the Treaty partners in relation to the marine environment. Unless the working paper is rewritten on that basis, it will continue to represent the marginalisation of Maori issues.
- The Oceans Policy needs to reflect local differences. Ministers must acknowledge that each ropu is managed differently.
- Tikanga gives iwi the authority and control to make decisions.
- Management of the oceans should be by hapu.
- Maori have katiakitanga through birthright. The Oceans Policy devalues Maori because it turns ownership into government policy. Maori want to have a say in their birthright. Maori must be able to exercise kaitiakitanga.
- Tikanga predates the Treaty.
- The final policy must give Maori parity at the highest level of decision-making. Possibly this could be through a fairly elected board of Maori decision-makers to sit on a commission.
- The paper should have defined what is meant by 'appropriate consideration of Maori interest', 'Treaty of Waitangi responsibilities', 'a Treaty perspective' and 'the principles of the Treaty of Waitangi'. Oceans Policy should promote clarity of Treaty principles for decision-makers.
- It is essential that there are consistent Treaty clauses (and therefore partnerships) within Acts and other documents that relate to the ocean environment. It is not sufficient to rely on protocols.
- The statement 'Treaty settlements settle all the claims of a claimant group, including claim to the oceans' is disputed. Locking the provision for iwi interest into settlement of historical grievance is flawed as it fails to recognise that the rights exercised in terms of the oceans continue today as living and breathing relationships.
- The Treaty is a contract, but because the New Zealand Government only recently started to comply with its Treaty obligations, it cannot claim to be in partnership with Maori.
- The Treaty clauses should refer to 'tāngata whenua' not 'Māori' as the rights in question are Article II Treaty rights which reside with the iwi and hapū that hold manawhenua manamoana. Inconsistencies currently exist within legislation, for example section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act refers to the making of regulations that recognise and provide for the special relationship between tāngata whenua and those places which are of customary food gathering importance, whereas, section 6(e) of the RMA refers to the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

Involvement in oceans management

- Acknowledgement of the status of iwi as decision-makers was absent from the stage two policy papers. Reference to the Maori world view and associated values is empty when the necessary authority to make decisions that flow from such values and responsibilities is missing from the Oceans Policy framework.
- As stated in paragraph 15 of the Māori and Oceans Policy paper, a suitable method of developing relationships and partnerships between tāngata whenua and Crown entities is through incorporating the Treaty principles into strategies and planning documents. An excellent example of this is in the DoC publication 'Te Kete Taonga

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Whakakotahi – A Conservation Partnerships Toolbox'. This partnership continuum should be applied to the Oceans Policy as a whole.

- Government and its agencies have to work out how they will work alongside Maori groups who have the capacity and capability to participate. Members' time and energy is often voluntary and this should be recognised.
- The working papers consistently referred to tāngata whenua participation as either part of the broader stakeholder groups or the public in decision-making. Working with tāngata whenua is an integral component for the success of the Oceans Policy. Crown partnership obligations should be explicit throughout the document. The Crown should consistently operate a two-tier decision-making process as set out below. An example of this process can be found in section 12(1) of the Fisheries Act 1996. Under this legislation the Minister of Fisheries must provide tāngata whenua with input and participation and have particular regard for kaitiakitanga, whereas fisheries stakeholders, environmental NGOs and Māori are to be consulted.

Traditional knowledge

- Incorporating traditional knowledge and customary fishing information into the wider fisheries management processes will be a key component in ensuring the success of the regional management forums. The Ministry of Fisheries will have to alter their decision-making processes to accommodate this information.
- It is essential that mātauranga is incorporated into fisheries management decision-making. Fisheries management decisions are currently exclusively western science-based. Information is seen as anecdotal evidence despite MFish being required to provide for the use and management practices of tāngata whenua.

Current relationships

- Some councils have failed to establish protocols, or a Memorandum of Understanding so that agencies can work cooperatively and collaboratively to manage the seas in a sustainable manner.
- Many tāngata whenua are very concerned by the lack of Treaty obligations on local and regional authorities.
- Tāngata whenua express concerns about the lack of capacity and expertise of local and regional authorities to have any further input into the management of the ocean.

Mechanisms

- The third bullet point in paragraph 21 of the Māori and Oceans Policy paper is not a tool; it is a legislative requirement under section 12(1) of the Fisheries Act. How is this meaningful input to be facilitated? Through the regional forums?
- The redress packages within the Treaty settlements that were referred to in the paper contain a number of mechanisms that attempt to recognise and provide for tino rangatiratanga and kaitiakitanga. However, there are several concerns with these mechanisms including:
 - the tools are not holistic. Tāngata whenua may only manage fishing and fishing activities under mātauranga and Tāngata Tiaki/Kaitiaki are not able to enforce fisheries rules 'on the beach' unless they are also Honorary Fishery Officers). Tāngata whenua are bound by the particular agency's jurisdiction. A lack of truly empowering provisions for tāngata whenua to exercise tino rangatiratanga leads to tāngata whenua feeling disenfranchised from their whakapapa, and feeling that they can not be true kaitiaki as these tools are only half measures.
 - Regulation 38 of the Fisheries (South Island Customary Fishing) Regulations requires the Ministry of Fisheries to provide information and assistance to Tāngata Tiaki/Kaitiaki for the proper administration of the regulations. The Ministry of Fisheries sometimes have no staff and sometimes commit no funding to support Tāngata Tiaki/Kaitiaki.
 - The establishment process for taiapure is long, bureaucratic and an impediment to the effective use of this tool. A review of these provisions was promised but still has not happened. Another problem with this tool is the lack of funding support for the management committee.

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- There are often insufficient funds to administer the customary fishing authorisations process let alone implement tools like mataitai and taiapure. A proportion of the marine biodiversity funds should be made available as a customary pūtea to implement customary protection tools. In particular, this pūtea will be required to develop mātaitai/taiāpure applications and to resource the management committees.
- Paragraph 28 of the paper included a statement about the lack of knowledge concerning the tools provided through Treaty settlements in terms of how and when they should be used. This may be so for some tools but it is not so for mātaitai, taiāpure and 186B temporary closures in Te Waipounamu.

Education

- All groups with decision-making responsibilities have to be sufficiently educated to give real input mo nga kaupapa o te Ao Maori.

Fisheries

- The relevant article from the Treaty of Waitangi on fisheries should be clearly written word for word in the Oceans Policy
- The commercial components of the fisheries settlements remain unfulfilled until Article II taonga are returned to tāngata whenua. The lack of access to these assets further exacerbates the capacity issues mentioned above and capacity to develop (or in many cases reaffirm) economic opportunities with other Article II taonga.
- There should be a Maori customary model which could be modelled on pre-European Maori catch. It is the most sensible method to introduce, since as a particular fish stock becomes scarce, a rahui is placed instantly on the species. During schooling season, October to January snapper should not be touched.

Council issues

- Customary Coastal Plans can work.
- Some councils and agencies are yet to realise that they are a Treaty Partner.
- The Crown has in effect disclaimed its Treaty obligations to tāngata whenua by devolving its management responsibilities to local authorities. This is clearly a breach of the Treaty principles.
- The Crown, through its departments, repeatedly advises that ownership issues and grievances are not regional council issues. While that may be the case, the issues constitute a major barrier to regional councils' successful management of the coast. Section 4 of the new Local Government Act (2002) sets out that it is the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi. It is up to the Crown to establish an oceans management regime that actively protects Maori interests while itself exercising kawanatanga.

Comments on Working Paper Four: Environmental issues

General comments on the paper

- It is unclear why it is presumed that restoration would be primarily passive rather than active.
- Dredge spoil should go back to the land it came from originally.
- Applying a blanket approach to the removal of redundant structures in the coastal marine area is not necessarily a good idea, because there are some special cases, (such as submarine cables) where a flexible approach should be taken. Such an approach would assess each case on its merits.
- The working papers should have reflected the idea of accepting different thresholds of human impact in different areas.
- The interaction of climate and other environmental variability with human actions should be mentioned.
- The paper was too utilitarian in approach.
- There were some good statements of values in the paper.
- Although the biosecurity issue warrants its own paper, there needed to be better integration of this issue through the other papers. This is because biosecurity is not independent of commercial activities, international trade, internal trade and activity patterns within New Zealand.
- It is important to remember that no one may have 'ownership' of the ecosystem.
- Land-based and sea-borne pollution are huge concerns for Maori.
- Look at international agreements to stop Australia sending their pollution over to New Zealand.
- Oceans Policy should develop initiatives that benefit the environment rather than exploit it.
- The primary focus in the papers was on the use of the marine environment. There should have been an acknowledgement that the oceans have intrinsic value, they are not solely for use by this generation, and we need to protect them not just for present or future economic returns but for a wider range of reasons.
- Oceans Policy needs to ensure a balance between the use and protection of the marine environment, especially in the exclusive economic zone where the Resource Management Act does not apply.
- There may be disagreement about appropriate protection mechanisms in different areas. For this reason, tools are needed that can have effect over freshwater springs (where shrimp live).
- Restoration needs to be provided for where appropriate.
- Oceans Policy needs to differentiate between management tools and protection tools. The differences between land-based and sea-based protection mechanisms also need to be reflected. On page 5 of the Environment Issues Paper, some protection mechanisms listed were in fact management tools (eg, marine pollution rules).
- Discussion of natural resources was missing (ie, fish, oil, minerals) and who participates in decision-making about natural resource allocation. There needs to be an overarching component that deals with the legal/political arrangements for the development of natural resources, then have the fisheries debate.
- The policies should identify some form of weighting towards activities that generate value in the least extractive or exclusive manner, for example, dive tours could be just as valuable as scallop dredging, while not excluding other users and not extracting resources.
- A problem with current management of the marine environment that was not clearly spelt out, is the lack of guidelines for decision-making in terms of preferring extractive or non-extractive uses, high impact or low impact uses and exclusive or non-exclusive uses.

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Precautionary approach

- A precautionary approach is very necessary to allow economic growth. Integrated management is essential as sewage discharge, saltation and road runoff are some of our biggest inshore pollutants.
- Compared to our knowledge of land-based ecosystems and the consequences of activities and interventions, our knowledge of the ocean's environment and the interactions within it is very limited. It could be desirable to strengthen the reference to a precautionary approach for the oceans. To take 'a precautionary approach when making decisions that may cause serious or irreversible damage' is only effective in situations where it is known that damage may be serious or irreversible. With regard to the oceans, we often do not have even this level of information.

Ecosystem-based approach

- Better to use the term 'ecosystem-based management' as opposed to ecosystem management
- There is an urgent need for a holistic approach with consistent vision to management of the purity of sea water.
- Marine resources need to be appropriately designed and of sufficient size to ensure they achieve their purpose, not just be representative of ecosystems.
- In adopting an ecosystem-based model of marine management, ecosystem indicators appear to be the most important. Therefore, if we can resolve the interface differences between the Fisheries Act 1966 and the Resource Management Act 1991, our knowledge of marine ecosystems and the establishment of environmental limits as benchmarks/indicators would be easier. Determining limits on an ecosystem basis, not a stock basis, would require more research and monitoring. Continued monitoring is needed to enable the flexibility of use of such indicators.
- There are tools in the Fisheries Act for taking an ecosystem-based approach to managing the environmental effects of fishing, but the main issue is a lack of commitment to implement them.

Marine protected areas

- Iwi have acknowledged that the Cook Strait Cable Protection Zone has a role as a quasi-marine reserve.
- With regard to the Marine Protected Areas strategy, the selection of the protection tool should, in most cases, be made after a risk analysis to biodiversity in the area has been conducted, to ensure the 'best tool for the job' is chosen.
- DoC has developed a public awareness strategy for marine reserves but there is currently no such government-funded strategy being developed for the customary protection tools.

Land /fresh water

- There should be a consideration of the cumulative effects of terrestrial and freshwater effects on the coastal/marine environment, not just the marine-related activities.
- Integrated management of the coastal interface and the territorial sea boundaries by all administrating authorities is needed.

Resource Management Act issues

- The Department of Conservation's role in the Resource Management Act decision-making process for the coastal area would appear to be at odds with the conservation philosophy that the department operates under and also the setting of the New Zealand Coastal Policy Statement.
- Should the setting of the New Zealand Coastal Policy Statement be the role of the Ministry for the Environment? Even though the Department of Conservation's involvement may provide some balance to the NZCPS and decision-making process, there is some conflict in ideology.
- The problem of sewage from recreational craft and small commercial craft is small at the moment. However, it will become more of a problem and legislation may be required to ensure that all vessels over a certain size are built with suitable treatment plants, etc. The current rules will have to be revisited in the not too distant future as will the problem of compliance.

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- In contrast to resource consents for terrestrial activities, coastal permits entitle the holder to have specified effects in the coastal environment, including exclusive 'occupation' of the space necessary for the purposes of that activity. This and limiting the maximum term of a permit to 35 years, reflects and supports the marine 'commons' concept.

Missing from the paper

- There was no discussion of the indirect impacts of commercial activity, for example, the biosecurity threat of translocation of pests from one part of New Zealand to another through aquaculture equipment.
- There was no discussion of the natural environment and intrinsic values.
- There were relatively few references to the New Zealand Biodiversity Strategy, and no reference to Conservation or National Parks Acts.
- The Environment paper also needed to indicate (in paragraph 18) that there should be a permanent legislative basis for protection.
- There was no discussion of systems to deal with competing interests, particularly no discussion of the impacts of the 'first in first served' effects of the Resource Management Act.
- Serious information gaps are present in this area, but there was no guidance on how to act in the absence of good information.
- There is concern about the limited approach of the Marine Reserves Act and its narrow focus. The broader approach to marine protection for a wider range of values would be addressed in the Oceans Policy but our expectation in this regard was not met in the paper.
- Insufficient regard was given to cumulative impacts with respect to visitors (numbers, timing, activities), recreational activities, commercial users/traders, boaties/transportation.
- There was insufficient reference to the serious impact of illegal activities on the oceans and ocean management in the papers. There were also assumptions about the effectiveness of the quota management system which is based (for many species) on a very fragile information base (with respect to biological or ecological knowledge for single species, much less the interactions between species).

Issues around fisheries management

- The further involvement of regional councils in fisheries management raises capacity and expertise issues.
- Forty stocks are currently below sustainable levels, which points to the need for better evaluation of stock levels.
- Oceans Policy could influence the setting of quota for new and existing fish species, to help avoid quota being set below sustainable levels. In many cases, this will depend on better information. At the moment, we often don't know what the stock levels are, and some stocks have been significantly reduced as a result.
- Many whales have been hit and killed on the Northland coast recently. Shipping companies need to be educated on more vigilance during migratory seasons. By-catch should be brought ashore for inspection and either used or returned to the sea.
- Customary and recreational fishing resources could be managed solely by a local statutory authority for example a runanga with local knowledge. It could administer enforcement.
- The quota management system and management of customary harvesting by Tangata Tiaki/Kaitiaki are marine protection tools in their own right, over fishing is an environmental effect.
- There are concerns with the reference to customary harvesting in paragraph 46. The management of customary fishing, including the cumulative effects, is the role of Tangata Tiaki/Kaitiaki.
- What is the rationale for treating marine mammals differently from other marine species?
- The environmental effects of fishing are not managed well, the Oceans Policy should provide a framework to address this.
- Decisions about managing the environmental effects of fishing require an understanding of how the whole marine system (both the ecosystem and

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- management system) works, including how the rights-based regime for stock use works.
- The tools and regulations are already available to deal with all aspects of fishing (including environmental effects), but there is no framework or overarching mechanism to guide decisions across the range of values and interests related to fishing. (The Fisheries Act fails to do this, as it goes straight from principles to identifying levels for fish stocks.) This leads to ad hoc decision-making.
 - Other values apart from fish extraction need to be considered in the fisheries management system
 - The definition of 'sustainable' yield should take account of wider ecosystem levels, not just the sustainability of the stock.
 - The working papers' assessment of the quota management system is flawed because they assumed that the current framework is adequate or sufficient. The quota management system has not been successful in managing either fish stocks or environmental impacts. The problems are not caused by the system itself, but as a result of its implementation. The implementation needs to be independent from commercial interests.
 - It is important to separate discussions about the quota management system and government decisions about catch levels.
 - There are mixed opinions on the effectiveness of the quota management system. Some think the system is good and others don't. Yet others think that it is a good tool in theory but that the system is too difficult to work. Most problems identified with the quota management system relate to it being based on single stock management. Even people who think that the quota management system is the best available tool to manage fisheries, admit the environmental effects of fishing are not managed well. It seems that Oceans Policy is a good place to address this problem. Ecosystem-based monitoring needs to be included in fisheries management, but on the other hand the quota management system becomes difficult to work when you try and manage ecosystems.
 - More thought needs to be given to how the quota management system relates to oceans management as a whole: what is the system driving and what issues is it creating? (For example, technical mistakes, philosophy, incentives in the system.)
 - The Resource Management Act has the tools to deal with the environmental effects of fishing, but councils do not usually use the tools because they are difficult to implement (and prone to being challenged in court).
 - The status of many species currently described as 'by-catch' will change when new quota management programmes come into effect. These species will also have to be managed inside the quota management system.
 - It does not seem like a good idea to devolve fisheries management plans to the people who benefit from exploiting the resource. Fisheries management should instead be under the control of government.
 - Fishers should be held responsible for damaging the environment and should assume the burden of proof.
 - Marine reserves are necessary to manage the effects of fishing and for replenishment.
 - The oceans should not be considered to be a convenient dump for waste material.
 - Environment Court judges or independent commissioners should have some marine knowledge. They should have a working knowledge of fisheries management and the like. There should also be independent Maori commissioners.
 - It is not as difficult as people seem to think to start assessing the interaction of fisheries extraction with the rest of the system, especially from a trophic point of view. There is a piece of work that is going to be published shortly entitled 'Pilot trophic model for subantarctic water over the Southern Plateau, New Zealand: a low biomass, high transfer efficiency system' which should help. An approach such as this could be the basis for independent investigations of the reliability of the conclusions in order to weigh up its value in decision-making.
 - Oceans Policy needs to be very careful not to displace fishing pressures into smaller and smaller areas.

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Use of words

- Some stakeholders think that 'protection' is a difficult concept, particularly when it is unclear what is being protected. Even when areas are protected from extractive human uses, there are still impacts on the areas from the people who visit them. We need some controlled experiments to try to find out what the effects of different tools are.
- 'Natural hazards' is not a good term to use because the hazards are not natural, they are human-induced. For example the Timaru port has had a huge environmental impact. Coastal hazards are not threats to the actual system, they are natural coastal processes.
- Para 3, second bullet: '*decoupling economic growth from pressures on the environment.*' What does this mean in practice?
- What is being referred to by a 'Government Sustainable Development Programme'? Is this apolitical or a development of this particular Government?
- The word 'monitoring' is often used too lightly. It should only be used in the context of there being rigorous analysis of the ecosystem state in relation to parameters that are indicative of this state. Only then should any monitoring be proposed. In such a context, monitoring need not be expensive.

Comments on Working Paper Five: The Land-Sea interface

General comments on the paper

- Greater promotion, encouragement and support for industry and landowner initiatives to promote sustainable land management would have significant benefits for oceans management.
- The Whangamata example in the paper is probably more about mangroves than sedimentation directly, though the two things are linked.
- Identify more fragile components of estuarine ecosystems, to provide a more balanced perspective to this issue.
- There is a perception that the 'big projects' will go through even when the public/community don't want an activity in their area.
- Development of good practice tools for decision-making, and sharing of information will assist when there is a lack of information.
- Wider and more up-to-date information sources than the 1997 NZ SOE report should have been used when writing this paper.
- Many of the issues identified have been a problem for a long time, being identified as problematic in 1924.
- The paper seemed so focused on the Resource Management Act that it overlooked the possibility of using the Conservation Act or the National Parks Act. There is potential for these pieces of legislation to be modified to enable better interface management. Some of the National Parks have considerable sea coasts and there is potential for strong gains in parts of the country where there are few human impacts. There was almost no reference to areas with low human impact/modification.
- The land-sea interface is definitely an issue, but the problems are not insurmountable. It seems to be an attitude problem as it is quite possible to develop rules to manage the process and enable decisions to be made (a socio-political issue).
- The paper was much too simplistic. The quote, '*conserve the land and you will conserve the sea. Make a link between the two*', is alarming. Conservation of terrestrial features will not solve overfishing, inappropriate coastal developments and dumping of sewage, for example.
- There needs to be more discussion of 'reverse sensitivity'. This may become important in the aquaculture area because established marine farmers need clean water to be able to farm. Marine farmers may ask for compensation if the water in their area becomes polluted.
- The hydrological cycle – the very significant role of water passing through the land and freshwater systems to the sea – seems to have been forgotten.

Resource Management Act issues

- Fresh Water plans under the RMA address improvements in water quality, which ultimately affects the quality of water discharged by rivers into the coastal marine area.
- More collaboration between district and regional councils would be helpful. It would be good if more coastal environmental plans were formed (for the whole coastal area), because councils collaborate with each other to form them which promotes good working relationships.
- Provisions exist for the transfer of powers. Jurisdictional boundaries can be overcome in a manner that suits the local dynamics. For example, noise control within the confines of Tauranga Harbour has been transferred to Territorial Authorities. These provisions have not been used as extensively as they could be.
- District plans cannot regulate against existing use rights but regional plans can.
- There are many problems concerning the implementation of the RMA and the societal pressures that act upon the process. If the community wants to maintain the existing coastal environment, hard decisions will need to be made.

Feedback from stakeholders – not Government policy

- The objectives of the RMA with respect to natural hazard management are not particularly clear.
- The benefits of flood management schemes need to be recognised.
- Lower tier statutory documents under the RMA have been developed and implemented in a random way. There has not been adequate guidance from central government on how matters of national importance should be provided for. It is critical that institutions and agencies implementing and enforcing policy decisions are clear about their respective roles, are given appropriate incentives, and are adequately funded.
- Paragraph 13 describes the loss of natural character and amenity values as being a result of council difficulty in making the trade off between coastal development and natural character. This over-simplified the issue and failed to grapple with many of the more systemic underlying problems including:
 - the lack of any national definition of what natural character or outstanding landscapes are and what councils should be trying to protect
 - the lack of any nationally consistent system to identify areas of significant natural character or outstanding landscapes
 - the difficulty councils are having in protecting these areas under the RMA once they have been identified and the council has decided to provide protection (as demonstrated in the *Arrigato* Case in relation to Pakiri Beach).
 - the inability of regional and district plans prepared under the RMA to effectively address cumulative effects given the relative ease with which consent can be obtained for non-complying activities.
 - the lack of a workable framework to protect nationally significant areas of natural character and outstanding landscapes on privately owned land. This requires stronger planning protection than is currently provided under the RMA as demonstrated in many other countries around the world. The current statutory framework fails to provide adequate tools to effectively protect these areas.
- The last sentence in the working paper states, 'In some cases, the human and financial capacity of agencies may not be sufficient to deal with problems effectively'. The use of the word 'effective' in this section of the paper has set a subjective connotation. Smaller councils must prioritise how they allocate limited resources, which involves, among other things, assessing how serious a problem is or may be and what is an appropriate level of action to take. In regions with smaller populations, there is less pressure on the coastal environment, and so the scale of problems may be smaller than in more highly populated areas. Instead of using the term 'effective', it would have been more appropriate to state that some agencies may not be able to (or need to) deal with some issues as quickly or comprehensively as larger-resourced councils.
- The Resource Management Act is not fundamentally flawed, rather it is not implemented well. There is a need for all mechanisms, including national policy statements and provision for national environmental standards, to be better implemented. There is also a need for more time to allow the full raft of first generation statutory documents to become operative.
- Improvements are required in the implementation of the RMA, particularly in relation to the coastal marine area (para 23). Paras 24 and 25 correctly identified the problem of councils not wanting to take unpopular decisions. That problem is exacerbated where the required action will not only be unpopular, but costly.

National guidance

- There can be a problem with stormwater/catchment plans, local government and central government should work together on this problem.
- The paper indicated that land-sea problems should be assessed on a case-by-case basis, that local authorities are best placed to deal with them, and that it is hard to identify any national priority for ranking issues. However, many of the issues related to the management of the coast are systemic (as indicated above), in that the same underlying issues are affecting numerous local authorities, and local authorities struggle to address these issues individually. A case-by-case approach is unlikely to generate any significant change in a timely fashion. A more strategic approach,

Feedback from stakeholders – not Government policy

driven at a national level, is required for a substantive change in current practice and outcomes. There are also clearly issues of national importance associated with coastal management, which require national direction, and one of the mechanisms for this is national policy statements.

- The paper referred to 'some scope' for central government to take a more proactive role. It is imperative that there is much stronger central direction to guide coastal management, particularly in relation to the identification and protection of significant natural areas of the coast. It is neither effective nor practicable to leave the protection of nationally significant resources solely to the limited resources and expertise pool of individual local governments without significant national direction and support.
- Land-sea interface problems do need to be assessed on a case-by-case basis, however, matters identified in section 6 and 7 of the Resource Management Act need to be given national priority. There will be aspects of these matters that will not change much from region to region. Where this is the case, direction and guidance from central government is important, and these matters must be given priority.
- There needs to be more guidance on matters of national significance, so that when 'big projects' arise, there are consistent provisions in statutory documents and guidelines for politicians.
- While lack of guidance is an issue, possibly a more important issue is the lack of timely guidance. There seems to be a large lag time between issues arising and solutions to deal with them. Overall a far more responsive central government would improve oceans management.

Hazards

- While an increase in the danger of hazards is important, equally important is the overall increase in the number/value of assets at risk as a result of ongoing inappropriate development. Sea level rise, increased storminess and erosion are foreseeable today yet many Territorial Authorities are failing to manage the problem properly. The use of s 36(2) of the Building Act may absolve those councils of liability for damage to the assets but it does little for good sensible planning. The problems are being deferred to future generations to tackle when large-scale damage becomes an issue.
- Increased development on the coastal fringe and human responses such as sea walls are putting significant pressure on the environment. Such responses may harm the environment and also be prone to failure.

Missing from the paper

- The paper did not specifically identify public health concerns, which do arise from sewage disposal, or the direct link between marine pollution and economic costs, whether through cleanup costs, closure of fisheries, public health impacts or negative impacts on tourism numbers.
- Small population centres, such as those in the Coromandel or Bay of Islands, regularly experience huge temporary population peaks due to high visitor numbers in the summer months. This has implications for public amenity values (overcrowding, access), leads to increased pressure on marine ecosystems and to risks regarding waste management and disposal. For example, the local sewerage system may not be able to process waste efficiently or larger quantities of waste will be pumped out to sea.
- The paper failed to address the protection of outstanding natural features and landscapes in the coastal area. This is a critical issue in terms of New Zealanders' connection with the coast and sense of identity, as well as having economic implications in terms of our tourism industry and branding of New Zealand goods overseas.
- The conclusions in the paper appeared very weak and failed to adequately grapple with the significance of the issues.
- The conclusion made no reference to the protection of significant landscapes and areas of natural character being issues of particular relevance to the Oceans Policy. These are critical issues and should have been explicitly referred to.

Feedback from stakeholders – not Government policy

Cumulative impacts

- Regional Councils often have to deal with a number of Territorial Authorities which have different approaches to non-point source discharges. This makes the problem of cumulative effects even more difficult.
- It takes time for chemicals that run from the land to the sea to be diluted by the oceans and in the meantime the chemicals may be having adverse impacts on the marine environment.
- Time is a factor in the land/sea interface. The effects of a build up of chemicals takes a while to be noticed, and even longer for the effects to die away.
- There was no reference to nutrient cycles and the role of human modification through the addition of nitrogen to New Zealand terrestrial systems and the downstream impacts was not discussed.
- The use of the term 'sedimentation' perhaps obscured the fact that much of the discussion was referring to soil erosion.

Boundary issues

- Boundary issues (particularly those that relate to the mean high water mark) need to be clarified urgently.
- Councils have many small problems with boundaries over the interface between the land and the sea. These problems all take a lot of time to deal with. Small councils should not have to sort out some of these problems themselves, especially if they are just re-inventing solutions that other councils have worked out. Examples of problems are: horses on beaches, jet-skis (the noise for people on the beach), natural character, privacy issues, dogs and vehicles.
- The North Shore District Council has a boundary down to the low water mark. This change was made because it was under pressure to deal with dogs on beaches. This 'buffer zone' could be made rateable. Often councils are not aware of how to do this. If a buffer zone is under the jurisdiction of two councils, people who want to build may have to go through two consent processes. This 'double dipping' would discourage investment.
- Boundaries become more difficult to identify in coastal areas with low gradients (where cliffs don't drop vertically to the sea). In addition, in the coastal marine area there are different assumptions about the use of land on either side of the land/sea boundary making management more difficult.

Capacity issues

- Regional councils often do not manage the land/sea interface well because they lack the knowledge to do so. Examples of problems include:
 - regional councils remove weeds in spring, when many fresh water species eat the weed, the shrimps that live in the weeds or spawn in areas of native water rushes.
 - the straightening of the rivers and streams is increasing the velocity of water movement, washing away more of the banks downstream.
 - the hidden damages of pine forests on the marine environment
 - the lack of protection or definition of intertidal areas.

Access to the coast

- Lack of access to the beach for recreational purposes is a major problem now and will get worse in future.

Comments on Working Paper Six: Marine Biosecurity

General comments on the paper

- We should apply the same strict vigilance to landed imports to all kind of marine vessels and their activities within our economic zone.
- It is important that Oceans Policy and the Biosecurity Strategy work together.
- The statistics that are quoted for the seafood and tourist industries present a kind of comparison, but the parameters given are not directly comparable. The mismatch needs to be rectified.
- The section on hull cleaning/fouling in the appendix needs to be updated.
- Capability and research/information needs to be highlighted again. The conservation sector does not have an industry sector that is in a position to fund research or biosecurity developments.
- No recognition or provision was given to kaitiakitanga and its relevant contributions to current environmental management and biosecurity management.
- There is a need for a tool for surveillance and control/eradication if necessary/appropriate.
- A Reserves Act for the sea is needed, extending to the outer boundary of the EEZ. Also needed is indepth consultation with local iwi in the resource consent application process. Applicants and local bodies should visit local marae, not just send letters.
- National coordination of biosecurity issues is critical.
- Current commercial fishing practices do not meet the Maori world view.
- It is interesting that the Department of Conservation's recently released draft Nga Akiakitanga Nuku Maori was mentioned. Some groups have presented DOC with proposals for management but have been turned down.
- The Biosecurity Act should be amended to include a Treaty of Waitangi clause to meet the need for consistency in Crown agencies working with tāngata whenua; and require recognition and provision for tāngata whenua input into decision-making and management processes.
- There are concerns with the way MFish and the Ministry of Agriculture and Forestry (MAF) (both designated lead biosecurity agencies) will work with tāngata whenua. MAF do not currently have a strong record of working with tangata whenua.
- The current focus of biosecurity should move from protection of primary production to a better balance that includes tāngata whenua values. Decision-making criteria should have taonga, including mahinga kai as a major consideration.
- A biosecurity management framework exists on land but not in the oceans, meaning that the cost of incursions in the sea spreads to those who do not exacerbate the problem. Consideration is needed of means to overcome the 'affected party pays' syndrome.
- There also needs to be a discussion about translocation of pests within New Zealand (the paper focused on international translocation).

Public awareness

- All New Zealanders need to be educated on marine biodiversity, kia ora tonu te mauri o nga moana. Kia ora tonu nga tamariki o Tangaroa. The meaning of these expressions for Maori is about the sustainable use of the sea. MFish, MfE and DoC cannot be expected to manage all introductions of new marine organisms. All sea users should report changes to government agencies and iwi.
- Not only do New Zealanders need to be educated regarding marine biosecurity, but so do international visitors. Overseas fishing boats, cruise ships, yachts and individual visitors who may use the marine environment all need to be educated about the importance of marine biosecurity and steps they should take to assist.
- Public participation in biosecurity decisions and management needs to be examined closely. Members of the public often spot biosecurity incursions before officials do.

Roles and responsibilities

- It is unclear what roles different agencies play in protecting marine bio-security and whose responsibility it is.

Feedback from stakeholders – not Government policy

- MAF and MFish are too involved in the area to be objective about biosecurity. Because MAF has the central role in biosecurity (even though MFish is also listed as a lead agency) insufficient attention will be paid to the marine environment. Also, the marine issues MFish will focus on will primarily concern impacts on the productive sectors (namely fishing and aquaculture) and not give sufficient regard to intrinsic or conservation values and the indigenous flora and fauna.
- Will the development by MFish of its own marine biosecurity strategy achieve the desired outcomes for other interest areas (DoC, Ministry of Health etc) and provide the understanding of their needs/information requirements ?

Comments on Working Paper Seven: Marine Cultural Heritage

General comments on the paper

- A Reserves Act for the sea is needed, extending to the outer boundary of the EEZ.
- The reference in para 31 to tools under the Fisheries Act should, again, have been coupled with an acknowledgement of their unworkability.
- The potential tourism values of marine cultural heritage provide an additional incentive for protection. For example, the Rainbow Warrior wreck is a tourist attraction in itself and there are opportunities for tours of sites of significance such as the anchorages of Abel Tasman and Captain Cook.
- This paper focused on historical sites and failed to address the wider New Zealand cultural context of the coasts and oceans.
- The application by regional councils of rules to protect heritage in the coastal marine area has been uneven. The upgrading of heritage to a matter of national importance proposed by the present Resource Management Act Amendment Bill may assist in this. However, the National Coastal Policy Statement is weak on heritage and needs to be upgraded to ensure a better and more even outcome.
- The ability to create marine reserves on heritage grounds could be of value. However, such reserves would probably only protect the outstanding sites rather than the ordinary. The greater part of the sum of marine cultural heritage might in fact be concentrated on the ordinary
- There is an issue about protecting heritage from effects of people's activities, and from effects of the marine environment. The environment itself is hostile, both to structures and to sites on soft shorelines. The qualification 'where practicable' is relevant to marine cultural heritage protection, although it should be applied more in relation to the difficulties of providing protection from natural conditions and processes, and less to issues relating to people's activities.
- The working paper stated that a strong theme emerging from the public consultation is the 'strong connection of New Zealanders with the oceans'. Whilst this is the case, this attitude has a detrimental outcome for maritime historic heritage. It tends to manifest itself in an attitude of open availability and participation – we have the right to access all parts of our seashore and everything that is on it, to pick up shells and so on. The attitude carries over to shipwrecks. Because they are in the ocean, they are available to all, and anyone has the right to take artefacts or items off them.
- The statement in the paper that '*Any activity in the coastal marine area must be authorised by a rule in a regional coastal plan*', is not correct.
- Regional councils have responsibility for historic heritage in the ocean. One council in particular, the Auckland Regional Council, is providing an excellent model of recording, protecting and advocating. Few others are giving much attention to this area of responsibility. The application by regional councils of rules to protect heritage in the coastal marine area has been uneven. The upgrading of heritage to a matter of national importance proposed by the present Resource Management Amendment Bill may assist in this. The National Coastal Policy Statement is weak on heritage. Without upgrading that as well, a better and more even outcome will be compromised.
- There is a need to provide resources for research and protection.

Historic Places Trust

- One important issue is the lack of resources available to the Historic Places Trust to be involved in resource management processes or, in fact, in compliance processes of their own.
- The limited resources of the Historic Places Trust constrain the Historic Places Act registration process. It is unlikely that the Trust will be able to adequately reflect local historic significance because of its national concentration and its limited resources. Better use of the RMA in protecting heritage sites would allow local views on significance to be taken up.

Feedback from stakeholders – not Government policy

Maori cultural heritage

- The RMA already allows for protection of Maori heritage as a matter of national importance. The problem is with uptake by councils. Maori should be the decision-makers.
- Much iwi heritage is at the land-sea interface. This raises the following points:
 - the need to make sure that the definition of cultural heritage includes what Maori consider valuable
 - the need to look to the Treaty
 - the need to incorporate traditional protection tools
 - the Historic Places Trust has a narrow focus on land and often neglects wahi tapu.
- The paper did not consider that much of the cultural heritage of iwi is located at the interface of land and sea.
- The best means to manage and protect Maori cultural heritage is by enabling iwi to be the decision-makers.
- No reference is made to the Mataatua Declaration, nor to the relevance of the Treaty of Waitangi in respect to cultural heritage protection.
- Comments on terms in the Marine Reserves Act were not entirely accurate. Non-extractive uses such as those carried out in a marine resource can and do have negative impacts on Maori cultural heritage.
- It is impossible to discuss the means of protecting marine cultural heritage without reference to the Treaty. The assertion that 'land in the coastal marine area is held by the Crown' is a clear denial of kaitiakitanga. If Maori 'ownership' of the marine area were acknowledged in law, and appropriate statutory mechanisms put in place as a result, rights and responsibilities in relation to protection of marine cultural heritage would be crystal clear.

Protection tools

- There is a need to make sure that the definition of cultural heritage includes what Maori consider valuable. The Historic Places Trust has a narrow focus on land and often neglects wahi tapu.
- The fate of some items in the sea is to be lost to corrosion or decay. Recovery of some of these may be justified. However, it is never justified if the conservation facilities are not available to deal with them. New Zealand is poorly equipped to deal with the conservation of iron and steel artefacts recovered from the sea and cannot deal with larger timber objects. Without greater capacity, particularly for iron objects, the full range of heritage protection options will not be open to us.
- It is important to note that the archaeological authority process in the Historic Places Act applies to events, not vessels. It applies only to wrecks where the event of that wreck occurred before 1900. In other words an 1872 vessel wrecked in 1901 would not be included in the authority process. The archaeological provisions of the Historic Places Act were not designed for the permanent protection of sites. This is because of private ownership rights on land. It is not realistic to expect to change the nature of the provisions for land-based sites. However, more permanent protection for marine sites away from private land title might be possible.
- With regard to developing protection tools outside territorial waters, major capacity and expertise issues would arise with regional and local authorities having any jurisdiction outside their current boundaries.
- The ability to create marine reserves on heritage grounds could be of value. However, it would only be likely to protect the outstanding rather than the ordinary. The greater part of the sum of marine cultural heritage might be concentrated on the latter.

Information and education

- More resources should be provided for research and protection.
- There is an issue around the lack of education on the value and significance of maritime historic heritage. Until a resource is understood it will not be valued, and thus will not be protected. The common perception is that maritime archaeology is

Feedback from stakeholders – not Government policy

shipwrecks, however, New Zealand coastal waters contain a considerable range of other heritage sites of both Maori and European origin. These include military sites and features dating from the 1880s, wharves, landing sites, and Maori sites such as landing sites and fishtraps.

- An important research tool not noted in the paper is the New Zealand Archaeological Association Site Recording Scheme. It currently contains 90 shipwreck sites, and over 100 other items in a maritime context, such as wharves and jetties, Maori fish traps and landing sites, military use sites and others. The site recording scheme is not comprehensive.

Salvage rights

- The persistence of salvage rights to wrecks was not covered. It appears these persist sufficiently long that the salvage becomes more a matter of artefact recovery for vicarious pleasure or commercial gain as marine antiques rather than commercial salvage. Some earlier expiry of these rights is desirable to protect the heritage values of wrecks.

International instruments

- In addition to the three key international instruments cited in the paper there should have been a fourth: UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris 1970). New Zealand is not a signatory, but we should be. The convention aims to restrict trade in antiquities, including artefacts from shipwrecks.
- The Treaty of Waitangi and the Mataatua Declaration are relevant international documents.

Comments on Working Paper Eight: Participation in Oceans Management

General comments on the paper

- The Marine Mammals Protection Act has been missed out of the appendix and it warrants inclusion.
- Public participation at roundtable conferences, pre-hearing and on site meetings have more immediate resolution than formal hearings.
- It is important to manage expectations (ie, clearly specify the extent to which the public can be involved and the extent to which they can influence outcomes).
- Decision-making criteria should be made known to the public and clear reasons given when decisions are made.
- The degree of technical information involved in consent and planning decision-making makes it difficult for the public to be involved in decision-making.
- Oceans Policy needs to recognise that much knowledge exists already within the public domain. There is, however, a need to target information at groups that pose particular threats to the sustainability of oceans.
- There is support for increased clarity and public involvement in oceans management. Increased clarity in terms of rights and responsibilities is considered extremely important for tourism operators who require certainty around their business operations.

Iwi participation

- Public participation should come at a lower level than tangata whenua participation in decision-making.
- Maori need to participate in decision-making. Consultation with Maori cannot replace Maori management of the oceans.
- A clear distinction must be made between the interaction of iwi and the Crown (including Crown delegates, such as local authorities) as Treaty partners, and opportunities for public input. The paper did not make that distinction clear.
- The dearth of time, human and financial resources available to be applied to these tools is a significant issue. They are the reasons for poor take up of customary management tools such as taiapure and mātaimai. However, the poor design of statutory/regulatory processes for implementation of the mechanisms has posed the greater problem.
- As well as reasons of resources and time, the lack of iwi participation in planning is also due to:
 - the Maori belief that they own the seabed and should control the resources, not just be participants in the process
 - lack of trust of organisations that Maori believe to be Crown agencies, based on past grievances.
- There is a lack of awareness in government, of Maori concerns and role in management, and of existing iwi management provisions.

Resource Management Act consultation issues

- People who are not affected by a decision should not submit on it. At the moment environmental groups get their members to make submissions on projects even if they live at the other end of the country.
- At resource consent hearings there is a reluctance to accept the views of people who are not university educated.
- Extreme, unreasonable, commercially driven or vexatious objections or appeals frustrate the decision-making process.
- Public participation in decision-making is important, however, drawn-out consultation processes can lead to cost increases that cannot be justified.
- At a local level, councillors/commissioners often fail to take into account views of submitters. There is also a lack of opportunity for public participation in decision-making.

Feedback from stakeholders – not Government policy

Comments on Working Paper Nine: Adapting to Future changes

General comments on the paper

- There was disappointment at the rather limited views expressed.
- It would be prudent to be proactive by lowering recreational bag limits now for all species important to recreational fishers. This also highlights the importance of good fisheries compliance.
- The greatest contribution this generation could make to the future is to resolve the question of Treaty rights and responsibilities.
- The increasing number of coastal subdivisions may result in an increased demand for coastal structures that landowners perceive will protect their capital investments (eg, houses) against coastal hazards.
- One future scenario that should be considered is that the oceans are held in customary title and managed in accord with customary authority. Exploration of this scenario may help iwi, the Crown and the public understand the kind of changes that will be required. It may also help to inform current changes taking place under the Oceans Policy framework.
- Population concentration is the biggest current threat to our inshore oceans.
- It is more important for Oceans Policy to deal with challenges that currently exist, rather than putting too much emphasis on trying to determine and provide for possible future challenges. Good information is crucial for good decision-making, where information is not sufficient, a precautionary approach should be taken.

Climate change

- Planning for the impacts of global warming where information is uncertain is difficult. This leads to difficulties for councils in planning, particularly in presenting defensible standpoints in the face of societal pressures.
- Climate change may mean that people have to rely more on ocean resources, this point was not raised in the paper.

Tourism

- There is an apparent lack of awareness of the impacts of tourism such as: numbers and timing of visits, types of activities, expectations, carrying capacity and cumulative impacts (and the commercial drivers that influence subsequent decision-making once expectations have been raised).
- It is important to note that visitor numbers throughout New Zealand are forecast to increase at a much faster rate than the general population. Many of these visitors will spend some time in a coastal area or areas. The latest tourism forecasts predict that New Zealand will receive an additional 33 million visitor nights by 2008. This will have substantial implications for New Zealand's infrastructure, environment and oceans which need to be planned for.
- As well as overcrowding, recreational values will be challenged by new and conflicting uses. This already occurs, for example, jet skiing versus kayaking versus water skiing versus diving.

Resource Management Act issues

- Where uses clash, priority should be given to uses that clearly have national benefit. Priority should be articulated by central government.
- The RMA is not a reactive system and is not well suited for future planning. The definition of effects in the RMA includes future and cumulative effects. The issue is more a lack of information on impacts from activities. A precautionary approach is therefore important. There are some activities where past and present effects are sufficiently known to be able to predict likely future effects. Central government can provide guidance on management of these effects through instruments such as national environmental standards.

Feedback from stakeholders – not Government policy

Competition for space

- There is an issue with how clearly rights are specified and especially their limitations. How many new opportunities may be constrained by previous permissions that convey more rights than are needed for the particular activity?
- Competition for space rarely, if ever, occurs within the EEZ at the moment, so do we need to have new processes to resolve potential conflicts in the EEZ at this stage or in the foreseeable future? The only major competitive problems that might arise will be if the new Marine Reserves Act is passed into law in its current form. This is unlikely, but still there will be a need to resolve conflicting interests if large reserves to protect the common and widespread [what?] within the EEZ are promoted. Clear principles do need to be established in the event that such issues do arise in future, in particular with likely increasing competition for exclusive occupancy of space within the territorial sea.

Comments on Working Paper Ten: Encouraging New Opportunities in the Oceans

General comments on the paper

- Discussions about future opportunities focus on future *economic* opportunities. There needs to be a discussion of environmental and other services that the ocean provides, such as non-consumerist, instrumental and intrinsic value.
- The marine management system needs to be adaptive to be able to deal with future uses.
- The section in the paper that discusses the 'allocation of space and conflict between activities' could have been expanded to include: rights to space, rights to resources, and rights that pre-empt new opportunities.
- A precautionary approach must be applied where uncertainty of impacts of uses exists, but not in a way that frustrates decision-making.
- New economic development should be encouraged to obtain environmental information.
- The nature and extent of iwi rights in oceans must be addressed as a prerequisite to encouraging new opportunities in the oceans. Without this knowledge there is no certainty for investors, and future development of marine resources will continue to be hampered by 'adversarial or claimant behaviour'.
- Opportunities or uses must be assessed against cultural criteria (protecting tāngata whenua values and rights) as well as environmental, social and economic criteria. Economic opportunities should not impede whakapapa or wahi tapu

Fishing

- Deep sea fish farming should contain the fish natural to that area without artificial feeding. Perhaps they could be moved seasonally.
- Offshore fishing could be viewed as seasonal. This would mean fishing when fish are fattest and not spawning.

Resource Management Act issues

- The 'first come, first served' basis of the current consent process means there is no agreed means of prioritising to choose uses with minimum effects or minimum impingement on other uses.
- A key role of Oceans Policy is to articulate where uses need to be prioritised, and to ensure processes are developed where conflicts need to be resolved.
- There are tools in the RMA that can be used to determine best value use of the ocean. National Policy Statements, National Environmental Standards, and provision of sections 6 and 7 could help.
- Where uses clash priority should be given to uses that clearly have national benefit. Priority should be articulated by central government.
- Obtaining best value would be assisted by the use of occupation charges. Central government assistance with this was needed five years ago. There has been none and therefore charges have not been implemented yet.

Shipping

- Many problems arise from the management of shipping. Tensions are created by the needs of shipping for port developments, channel dredgings, operational discharges, and occasional accidents and spills and the transfer of organisms by fouling and ballast water.
- There are difficulties in extracting money from shipping to pay for externalities.
- The international nature of shipping means it is controlled primarily by international regulation, and domestic requirements such as the RMA rules are not applied to shipping, although RMA regulations under the Marine Pollution Regulations attempt to apply MARPOL Convention requirements within the territorial sea.
- It is difficult to enforce RMA regulations on shipping which is better controlled through flag states agreements to ensure vessels adhere to port state requirements. If the

Feedback from stakeholders – not Government policy

difficulty could be overcome, however, biosecurity concerns such as ballast water discharges in ports could be addressed using the Resource Management Act.

Energy issues

- Renewable energy uses are likely to be controversial areas in management and development of the ocean resources. The importance of renewable energy as signalled by the Government needs to be factored into prioritisation of use of ocean resources.
- Future power generation possibilities should definitely be brought into the equation.
- Other previously unrealised opportunities also need to be provided for. A pertinent example would be the possibility of deriving energy from gas hydrates offshore from the eastern coast of the North and upper South Islands. Any policy should establish clear parameters to enable such a development subject to take appropriate risk management measures.
- Petroleum exploration activities, whilst capital and technology intensive, range from initial 'minimum impact' remote-sensing activities, followed by drilling which is both short duration and localised. Where successful, follow-on developments impact on very small 'footprints' and can be completely restored after a few decades at most. Right of tenure is exclusive among competitors in the petroleum exploration and production industry, but is of finite term and does not exclude other uses – set in the immediate vicinity. (Exclusion is generally for safety reasons, evidenced by exclusion zones around offshore installations and petroleum pipelines.)
- The first 10 years of any new Oceans Policy will coincide with the need to find and develop more gas if a reliable, economically beneficial and 'climate change friendly' electricity supply can be maintained and indeed increased to meet forecast demand. The efficient discovery and development of further oil resources off New Zealand's shores would also provide significant economic and social benefits and opportunities.
- The competition for space between competing users is not currently significant with regard to petroleum exploration and mining. However, the introduction of the Marine Reserves Act may mean more conflict, although petroleum permits are only held for very localised areas of coast.
- The working papers signalled key reforms. These should not compromise the ability of existing petroleum mining license holders to exercise their rights. These licenses apply to a limited number of localised areas, represent significant investment and must be protected.
- The utilisation of New Zealand's existing gas resources and identification of new ones is currently a matter of national significance and will become even more so with projected increases in energy demand. Oceans Policy needs to recognise this importance and must not introduce additional barriers and constraints. In the working papers, the role of petroleum mining appeared to be overshadowed by consideration of more marginal energy options such as wave power and offshore wind power.

Other economic opportunities

- The security of all submarine assets should be coordinated and managed in an integrated manner, by one institution mandated with enforcement. The principles and protections established in the Submarine Cables and Pipeline Protection Act 1996 should be retained and enhanced and more sophisticated positioning equipment for fisheries technologies could also help to avoid damage to submarine cables.

Comments on Working Paper Eleven: International Oceans Issues

General comments on the paper

- Reference should have been made to those international agreements and conventions dealing with the rights of indigenous peoples and their relationship with their resources.
- The process for implementing international conventions that the New Zealand Government has signed up to, within a territorial sea, is unclear. How are these to be implemented, who is responsible, and are other countries implementing them?
- Care must be taken to ensure free and safe passage of all international shipping in areas such as Cook Strait, which is an international shipping route. Constraints should not be put on any types of vessels because of ill informed and perceived threats by any pressure group.
- Need to check alignment within the territorial sea (ie, under the RMA) with UNCLOS and MARPOL provisions relating to participation and pollution.
- Emphasis should be given to honouring the Treaty of Waitangi with the same vigour taken to honouring international treaties.

Participation in international fora

- Informed non-governmental organisations should have their philosophies and information about them aired in international fora.
- There is minimal participation of iwi in international fora affecting our oceans despite the obligations of the state to give cognisance to indigenous peoples in various conventions and treaties. Where indigenous representatives are present there is little accountability as to how these persons are appointed or their obligations to consult and report back to iwi.
- Maori are not consulted on international agreements, and as a treaty partner they should be.
- Maori should participate in international fora.

International Oceans Policies

- A critical oversight in the Stocktake document was the inadequate analysis of the various international regimes and laws which apply to New Zealand, what effect they have on our domestic legislative and management regimes, and how they are given effect to. When Australia developed its oceans policy, this analysis was published as a comprehensive stand-alone document. All stakeholders then knew exactly what could or could not be done in the various segments of the oceans domain. The Australian publication could be amended to fit the New Zealand situation, and published quickly.
- There has been a lack of attention to other countries' Oceans Policy work (eg, the USA's National Oceanic and Atmospheric Administration (NOAA)).

Comments on Background Paper One: Setting the Scene: New Zealand's Oceans-related Obligations and Work on the International Stage

General comments on the paper

- The section on International Maritime Organisation (IMO), states that 'New Zealand's Maritime Safety Authority has close involvement in the IMO's work, and can implement a wide range of international marine protection and navigational safety obligations through IMO enactments'. MFish is also working closely with IMO on the development of a convention to manage ballast water discharge and this convention is in its final stages of development.