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IN-COMMITTEE SESSION MINUTES

MARINE PROTECTION FORUM MEETING

22nd MEETING – 15 December 2008

In-committee session occurred in the course of the Forum's 15 December meeting.

1. In-committee Sessions

Carol Scott gave a run down on feedback from the meetings with the fishers she represents.

For their group Okarito will be off the cards. Impacts will be huge. These areas (Okarito and Kahurangi in particular) are very important mixed species fisheries, including flats and stargazer trawls that come in close to shore. There are too many overlays – Marine Reserves, MPA's, dolphin closure areas and Mataitai's. The cumulative effect on commercial fishers will be to push them out of areas and they will need somewhere else to go to maintain their livelihoods. There will be a need to evaluate where the displaced fishers will go and the effects on these areas.

There were also concerns at the Gorge site regarding the potential effects on crayfishing with the whole of the MPA

She also pointed out that fishers can't always move to using different methods because of the species mix in the area.

Eugenie asked if alternative sites were suggested at the meetings. No alternatives were put forward by the meeting. Carol would definitely not agree to an MPA going out to the 12 nautical mile limit.

Geoff commented that given we have a new Government should they be approached about compensation for loss of earnings for commercial fishers. Effectively "we (the forum) are taking away people's property – quotas that are already in place. We should not be responsible for that."

Bruce Watson suggested that the Forum, before going to the public with consultation should approach the new government.

Stuart pointed out that because compensation in the past was always directed at quota owners, not necessarily the fishers, that compensation does not actually assist those whose livelihoods are at stake.

Kerry – Black sand mining operators will also be displaced. Kerry noted that the potential effects of the proposed Mataitai reserves in South Westland would have a similar effect of

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shifting fishing pressure elsewhere since the proposed reserves overlap areas where a significant proportion of TACC from the lobster fishery.

Flag highlighted the Gisborne example of a Marine Reserve placed on cray beds and how it simply moved commercial operators into the recreational fisher's areas.

Carol Scott mentioned that if commercial fishers weren't able to access their quota through displacement, a concern is that the TACC could be lowered.

Geoff suggested the Forum should write to the Ministers.

Bruce Watson put the question forward of, "What are we achieving if we are just transferring the pressure to other areas?"

Eugenie Sage brought up the difference between terrestrial vs. marine based access rights and the concept of "resource rental". However, Kerry pointed out that fishers do pay a, "rental" but it is now termed "cost recovery" and goes towards research into the fishery and administration of fishing permits etc.

Emily brought up that the Forum might not be able to solve the problem, but could they make recommendations regarding how to compensate fishers for loss of livelihood? Stuart didn't envisage that there was a "compensation package" that could adequately or appropriately do the job. His concern was - how do you determine the actual cost?

Geoff asked MFish how the impact on fishers was actually assessed. Nicola explained that it is difficult to assess the impact based on catch, so MFish uses quota as an indicator. The impact is assessed on whether it is unduly adverse. The assessment looks at whether or not the fish can be caught elsewhere rather than assessing the economic impact to individuals.

Geoff pointed out that the Forum is in a position to roughly assess the potential cost to users prior to going to the public for consultation. Eugenie asked, how would the compensation work, and would it only apply to commercial fishers? Geoff asked, how can you compensate recreational fishers? For the areas under discussion here he doesn't see recreational fishers as being largely impacted and the cost to recreational fishers is relatively minimal.

In terms of assessing the possible impact on fishers of a Marine Protected Area, Kerry pointed out that more fine scale reporting will be available in the future because of new catch reporting forms. So there will be increasingly more and better information. However, because this is a new reporting procedure, there is not enough of the fine scale information available to the Forum. Nicola pointed out that more than one year of data is needed to accurately assess the impact of a closure on fishers because some stocks may fluctuate markedly, and fishing effort may move between years, etc.

Emily pointed out that this discussion wasn't on the agenda for today, however, Carol Scott and Bruce Watson felt that some discussion needs to occur before going out for consultation because the Forum needs to come up with a social agreement which does not seem possible currently. Carol suggested it could be included in the consultation document.

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Bruce Hamilton asked the Forum if there was general consensus that the Forum needs to push for action surrounding compensation, either direct to government or put to the public to react to?

Bruce Watson highlighted that the Forum should go to government first since you can't go to the public with an option of compensation if the government says no. Campbell asked the Forum, what would the Forum do if the government still says that compensation is not an option?

No solution was proposed but Bruce Watson believed that under current circumstances, a social agreement could not be reached around the table.

Issues:

1. managing increased pressure on other areas
2. compensating those actually affected (the fishers and/or quota holders)

Possible action:

1. Form a sub committee to draft a letter to the Ministers (Fisheries and Conservation) on compensation and displacement issues. Develop the proposal and circulate to the Forum.
2. Write to Ministers regarding compensation and managing increased pressure to protect biodiversity overall.
3. Put compensation option into consultation document
4. Table this discussion for consideration when putting together the final recommendations

Further discussion around compensation:

- Eugenie would not support in principal the right to compensation but would not block consensus.
- Nicola said that compensation requests to MFish were not new and that historically these requests were "no go" as the policy clearly states "no compensation".
- Bruce Watson and Carol Scott don't think that the Forum can do it's job without compensation for the commercial fishers.

Motion:

Write to Ministers (Conservation and Fisheries) briefing them on the process and informing them of the current impasse. Invite them to meet with the Forum to discuss their commitment to the MPA Policy and how to move forward.

Motion put Brad Stenhouse/ Dennis Shannahan

Carried

Discussion around the motion

Emily and Eugenie want more clarity of content of letter. It was even suggested to have a meeting to discuss the content of the letter. There was a further request for analysis on the impact of the Kahurangi site on fishers, and what the possible effect of displacement might be. Stuart reiterated that the data to make a meaningful assessment wouldn't be available for another couple of years, for the reasons mentioned earlier.

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Maps and an interim report should be sent with the letter and a draft of the letter circulated to the Forum members before it is sent.

Carrol Browne gave an update on the Okarito meeting, and a summary paper was handed out to all Forum members. It was very well attended and many questions were asked which apply to other areas on the West Coast where MPA or MR are proposed. Main points are:

1. What does the process mean for collecting driftwood, seaweed, using a quad bike to check blue penguins, horse riding, sand mining, using a digger to keep the lagoon open etc.
2. The community generally want a site designation that allows them some say in its management – they support a mataitai in this respect.
3. A major concern is the level of community input into the process.
4. The terminology used in the process is not well understood by the public – it is confusing, the biggest problem being in understanding what an MPA actually controls, and concern that it means far more than fisheries act controls.
5. The public don't trust Government or the process – suspicious that a Marine Protected Area could become a Marine Reserve 'overnight'.
6. There maybe the option to establish community committees for Marine Reserves.
7. Need to establish a corridor between National Park and Marine Reserve so that access by vehicle is permissible.

Carol Scott asked if the locals were aware of the possible recreational bylaws that could be brought in under a mātaimai? Carrol Browne said that she believed the locals at Okarito who attended the meeting understood that mataitai would be administered by a body of local iwi that could have representation of other local people.

2. Mataitai Reserve Proposals

Bruce Hamilton is to meet with Paul Wilson in the New Year. Laura updated the forum on the Mataitai applications. They have not been withheld, rather content is being finalised before going to public notification 19th January 2009. The Runanga is aware of the impact on Commercial Fishers and will move forward with lower impact ones first. Higher impact ones will be worked through one by one and when each is resolved fishing will be reinstated. No firm time frames, given the number of mataitai applications around NZ. – Nikki supplied a map of the proposed mataitais.

Note that Mataitais usually exclude commercial fishing but the management committee of a mataitai can choose to allow the activity. Mataitais are trying to protect the resource. If a mataitai didn't get approval the Forum could recommend another form of MPA for example, a type 2 MPA in the Okarito Lagoon.

Kerry also provided an update on the mātaimai situation based on discussions between Cra8 fishers and runanga. The update suggested that runanga will be writing to the Minister of Fisheries requesting that MFish be able to process reinstatement of commercial fishing quickly within mātaimai upon approval.

Questions were asked about the process of reinstating commercial fishing into a mātaimai. Nicola explained the "prevent test" and that if a mātaimai was likely to have a significant impact on commercial fisheries, eg, if the quota cannot be met elsewhere because a large amount is

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coming out of the area proposed for closure, then in order to proceed the Minister could recommend that commercial fishing needs to be allowed back in.

Kerry reported on the possibility of commercial fishers being given five years as a “phase out” period for some of the significant mātaimai applications. Nicola explained that this isn’t possible as it doesn’t actually solve the “unduly adverse effect”.

Questions were raised about the management of mātaimai. Geoff was concerned about the prospect of commercial fishing being allowed back in but the possibility of stricter bag limits for recreational fishers. Kerry explained that the runanga are concerned about increased fishing pressures in the area (20 mixed finfish per person per day) and that protecting areas of special significance from high fishing pressures was a key reason for these applications.

Stuart asked about whether or not the Ministry of Fisheries has any role in the management of mātaimai reserves once they are approved. Once established the Ministry of Fisheries offers support to the Mātaimai’s administering body with regards to monitoring and enforcement, additionally the Minister can make recommendations to kaitiaki if the Minister is concerned about the sustainability of any stocks within the mātaimai.

3. Site and Tool Selection

Note that maps will be drawn using nautical miles rather than depth and will be straight lines boundaries between points.

Punakaiki

Campbell gave a summary of the current site option;

- MPAs around the townships to allow for recreational activities including whitebaiting and surfcasting around river mouths
- This is the only site where Intertidal cobble is present and also recognises continuity with conservation land – this cobble goes north to the Nikau Scenic Reserve and as far south as Maher Swamp – an important lowland wetland (few of them)
- 400 000 visitors to Dolomite Point annually
- The site also acknowledges the importance of the 30 000 visitors to Truman Track annually.
- Note that there was discussion on the inclusion of the Porarari Lagoon within the Marine Reserve

Brad pointed out that people do surfcast from the rock ledges at the end of Truman Track. Bruce Watson thought that this was area was seldom used for surfcasting.

Eugenie queried the offshore boundary in that it only just touched the 20m depth contour at 2 points and thought that the boundary was supposed to be out to the 20m contour along the length of the boundary. There was then discussion around the difficulty for compliance to enforce a boundary based on a depth contour, so a distance offshore should be proposed. This was agreed on, as following a depth contour in this region would mean the offshore boundary makes a big dogleg. Flag noted that the depths in this area are quite variable and not as shown on the map. A suggestion was eventually made to make the offshore boundary be to 1 nm rather than following a depth contour. Stuart didn’t believe that 2 nm would be acceptable, however, Ian MacKenzie said that not much commercial fishing comes within 2 nm in that area

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so the map was amended to have an offshore boundary of 2 nm offshore with a straight line between.

Note: Eugenie stated she seemed to be the sole voice with regard to some of her comments. She thought a river mouth, cobble and intertidal gravel should be included within a marine reserve. She suggested altering the boundary of one of the proposed Marine Reserves to encompass this.

There was discussion around the northern boundary of the northern MPA and whether or not to bring it in line with the rock wall, so as to include the Poroari Lagoon as part of a Marine Reserve. The question was raised as to whether the Punakaiki River mouth would have been a better river mouth to protect, however, there was general consensus that this one was more modified and the Pororari Lagoon was more natural.

Following further discussion on the levels of use at the Pororari Lagoon, the recommendation was made by the Forum to leave the boundary as it is already mapped but to note in the body of the discussion document that there was discussion around moving the MPA/MR boundary down to the consented rock wall and provided that this was noted, the public would have the opportunity to comment during the submission process.

Okarito

Campbell gave a summary

- Southern boundary is Southern end of the Waiho Beach
- MR boundary – the community want to see it moved south to the north side of the Three Mile Lagoon outlet
- Black sanding occurs along the beach at Five Mile Lagoon, Okarito Spit, and the Waiho Beach, there is currently no black sanding minerals permits issued for the Three Mile Beach
- Five Mile Lagoon is currently within the Westland *Tai Poutini* National Park and Three Mile is in the final stages of being gazetted as National Park, and it is currently public conservation land. National Park status offers the same, if not higher level of protection as Marine Reserve status. Technically National Park land can not also be Marine Reserve. To do so would require removal of the National Park status, this is extremely unlikely to happen. So these two sites can be noted as meeting the required level of protection without any further action.
- There is a resource consent in place that allows the community to reopen the mouth of the outlet should it reach a certain trigger point. This occurs probably once a year on average.
- The feedback from the community meeting was that they would prefer Mātaaitai to MPA as this could allow the community an ongoing say in the management of the area.

Eugenie raised that she had always maintained that at least part of the Okarito Lagoon should have a higher level of protection such as Marine Reserve. This would preferably be the top half of the lagoon. There was some discussion around the effects that Marine Reserve status could have on known activities in this area, such as duck shooting and commercial eeling. The whole of the lagoon is also a statutory acknowledgement area and part of the suite of proposed mātaaitai reserves. The Forum agreed to put forward an option of having the Northern half of the Lagoon as MR acknowledging the significance of the wetland. This would then allow guidance from the public about a higher level of protection than a type 2 MPA or mātaaitai.

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Geoff queried whether anyone wanted MR protection in light of the Forum agreeing that Okarito fits into MPA. The forum should be guided by the public about any higher status than type 2 MPA or mātaitai.

This recommendation would need to acknowledge that the Lagoon is subject to a mātaitai application, and they also wanted to obtain input from Richard Wallace.

The Members requested that Campbell or Nikki speak to Richard about MR as soon as possible.

It was agreed that to be consistent with Punakaiki and other sites the offshore boundary should be made 2NM from shore at the Southern and Northern end and a straight line between.

There was discussion around how the recommendations could allow for the continued use of 4WD motorbikes along the beach within the Marine Reserve. The community has expressed that this was very important to them for a variety of reasons. Mean High Water Springs (MHWS) is the most inner boundary of a Marine Reserve

Geoff requested that Agencies check Abel Tasman National Park and the Marine Reserve in terms of boundaries – especially as it applies to private ownership, Queens Chain, road, etc

Agencies were asked to follow up on whether certain types of vehicles could be allowed within a Marine Reserve, and if there are other examples around the country of such.

Within a National Park the black sand mining could still occur but would require approval from the Minister, and would have to prove that it is not having an adverse effect on flora or fauna. Bruce Watson suggested that since black sand mining currently doesn't occur along the Three Mile Beach the Forum could request that that this beach remains free of mining, while mining could continue at Five Mile.

Note: Eugenie was not satisfied with the Marine Reserve offshore boundary. Ideally it would extend to 4 nautical miles rather than two.

Options

Pending the outcome of the mātaitai application fro Okarito Lagoon – if unsuccessful then the Forum could recommend a MR. This to be included in the discussion document to the public.

The concept of options for consultation was discussed, and agencies expressed caution about offering options within the public document.

Nikki raised the notion that if polarised options are offered then it is likely that the Forum will get polarised feedback and it will become problematic and difficult to make recommendations. However, if the consultation document represents a relatively unified view on particular sites, it is more likely that the feedback will be constructive and useful in the analysis and recommendation stage.

The Forum has met for 3 years with vast amount of information, knowledge and understanding of the policies, therefore can they really expect the public to make a more informed decision?

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Options could only be acceptable to Agencies if they are marginal to a network that meets the standard. Or where everyone agrees that either option is acceptable and either option presents a complete network that meets the standard.

At least two members have indicated that the number of submissions received is not how decisions should be made.

Rick Barber pointed out that in the consultation document they need to clearly state what they want to get from submissions, eg, thoughts, guidance on places of disagreement, including offshore boundaries etc.

Within the public consultation document the Forum should ask for other scenarios or options. It should also ask for comments on offshore boundaries.

Kahurangi

Carol Scott disagrees with the 12 nautical mile outer boundary given the commercial fishing undertaken in the area. She stated that the policy could be achieved with less. Carol and Geoff suggested some changes to the site map.

Bruce Hamilton reminded the members that in early stages this area was chosen because it 'cost' less. Commercial fishing is now known to be greater than first thought, possibly as operators are pushed from Marlborough Sounds, they have moved into this area. Ian MacKenzie pointed out that increasingly more commercial fishers have been operating in the area over the past 10-12 years. None of these fishers are based on the West Coast.

This area was also chosen because it captured so many habitats in one area.

Note that trawling is not done inshore to offshore, rather longitudinally.

The community in Karamea don't want the MR to extend to Crayfish Point, rather to the Northern side of Crayfish Point as it is a place that is accessible to 'jump in' and still catch cray and paua.

Emily asked if this was a place where an option could be presented to the public, however, Sarah explained that the other options discussed prior to this one have been around the margins, the case of the 12 nm offshore limit for Kahurangi (vs 8, 6, 4, 2 1) is too big a difference to present to the public as an option. Nikki pointed out that depending on what the Forum wants from submissions should have an effect on how you present options to the public, eg, if you present two very different options, your submissions are likely to be more polarised and less constructive.

Carol Scott was not happy with the size and asked the Forum how do we resolve the fact the Forum can't agree?

Stuart stated his concern about the displacement of fishers. For example, Okarito may be a more important fishery area than Kahurangi for fishers in a particular region, but if you prevent access to the fishers that use Kahurangi, then they will move south, potentially into the Okarito area.

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Bruce Watson suggests noting the objection to the 12 nm outer boundary and go to the public with the original map (including the shift of the southern boundary to north of Crayfish Point), asking them to consider this area and the Coast as a whole. Text within the consultation document should be provided outlining reasons for disagreement. Clear reasons why, issues and concerns. He also suggested that this map should be included in the briefing letter to the Ministers as it highlights where the biggest source of disagreement is.

Gorge

Stuart provided members with two new points which reflect active trawl grounds. This information now provided the inner boundary of the MPA which moves offshore slightly. Outside this trawl track the main methods of commercial fishing are set netting, cray potting and long lining. Bruce Hamilton supports the new trawl line. This area still makes a huge contribution to marine protection in NZ.

Eugenie noted from the Policy that MPA should have low boundary to area ratio and this proposed MPA did not meet this and in her mind is not good reserve design. She also stated that she thought the Marine Reserve portion was too small and that that should extend out to the outer boundary as she believes the other options in the South Westland area don't show adequate depth range.

Kerry reminded the members that it is a remote site and that the users could agree to this proposal as it stood. Don noted that given its remoteness buy in from commercial fishers will be required to police the area. However, he also felt there was value in keeping it to a reasonable size and extended out to the canyons.

Eugenie questioned what types of fishing were allowable in the MPA – agencies advised that set net – shark, long line and Cray fishing were permissible. No trawling is allowed.

Emily asked if the Marine Reserve could be extended to include the MPA offshore and remove the MPA (in the southern part of the site). Members replied that this removed two small trawl lines in an area where operators have already surrendered the cray quota in the MR area.

Eugenie noted that South Westland has a greater level of biodiversity – why wouldn't we wish to protect it.

The members agreed that the original map including the new points provided by Stuart will go forward for consultation (keeping roughly within the 200m contour but make it simple for fishers and policing). The forum notes Eugenie's disagreement with this proposal as it stands (she wishes to see the MR go out to the 200m contour). The Forum agreed to clearly state in the consultation document this disagreement and seek feedback from the public.

Concern was raised about the shape of the offshore boundaries but it is the way it is because it is following the canyons. It was pointed out that in the future, once the Deep Sea MPA process starts that the end result may be to straighten up the lines.

4. Media Article

Campbell to arrange for a media release to be provided

5. In-committee Minutes

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The In-committee minutes from the meeting of 4/5 November were tabled for discussion. No amendments were made.

Moved to accept minutes – Eugenie Sage / Brad Stenhouse

Carried

The Forum agreed to move out of committee, noting that it will try to remain out of Committee (i.e. Public meeting) from the next meeting onwards, although the showcase/educational sites were still to be discussed.

Moved Eugenie Sage / Dennis Shannahan

Carried

4.50pm

Confirmed
Bruce Hamilton
Chairperson

Papers Tabled

1. Draft In Committee minutes from 4/5 November 2008 meeting
2. Site maps
3. Marine Environments and candidate sites table