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## MINUTES

### MARINE PROTECTION FORUM MEETING

19<sup>th</sup> MEETING – 2 & 3 September 2008

Regular meeting held at St John Conference Room beginning at 9.30am on 2 September and finishing the following day at 4pm.

### *Present*

Bruce Hamilton (Chair), Brad Stenhouse, Denis Shannahan, Stuart Thomson, Ian McKenzie, Bruce Watson, Eugenie Sage, Geoff Rowling, Carol Scott, Kerry Eggeling, Carrol Browne and Rick Barber.

Nigel Scott from Te Runanga o Ngai Tahu attended for the morning of 2 September.

### *In Attendance*

Campbell Robertson and Don Neale (Department of Conservation), Scott Williamson and Laura Boren, Nicola Pindur (for 3 September only) (Ministry of Fisheries), Andrea Jackson (Minute Secretary), Sarah Wilson (facilitator). Mac Beggs of the Petroleum Exploration and Production Association of New Zealand (PEPANZ) was the invited guest of the Forum on 2 September and was given speaking rights.

### 1.0 Apologies

Apologies were received from Emily Arthur and Richard Wallace, and from Nicola Pindur for 2 September only. Brad Stenhouse had advised he would arrive late. Apologies to be accepted. Paia Riwaka-Herbert (Ngati Apa), was invited to attend as an observer, but sent her apologies.

*Moved apologies accepted Stuart Thomson/Kerry Eggeling*

*Apologies Accepted*

### 2.0 Agenda Confirmation and Declarations of Conflict of Interest

The meeting agenda was confirmed and no conflicts of interest were declared. Eugenie Sage raised the matter of attendance by the representative from the Minerals Industry, and queried the opportunity being available for other interest groups to make a presentation? She noted that she had previously asked for an opportunity for a presentation to be made by environmental representatives. After discussion Bruce Hamilton summed up the agreement of the Forum that such an opportunity could be offered. Sarah Wilson commented on the process, advising that parties who might normally be presented as stakeholders in accordance with the Guidelines, but due to the early establishment of this Forum have not been included as representatives, could be offered the opportunity to make presentation, or alternatively could be offered a representation spot at the table. Bruce Hamilton advised that this distinction was appreciated, and that the Forum thought the best process into the future was for presentations to be made, with such approaches to be made via the Chair. Future discussion concerned the

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need for fairness in presentation from different sectors, and agreement that the Forum should hear from the representative from the mineral industry present today.

Agenda Item 9 was moved higher up the agenda to precede item 6, and with this revision the agenda was confirmed.

### 3.0 Correspondence

Kerry Eggeling advised that his mail delivery is now slower, and **it was agreed that mail to him would be courier posted.**

The only correspondence was an email received from Mike Patrick on behalf of the Minerals Industry, and discussion on this item was deferred to the presentation from that industry.

### 4.0 Minerals Industry Presentation

Mr Mac Beggs made a presentation on behalf of the Petroleum Exploration and Production Association of New Zealand (PEPANZ). Mr Beggs advised that a number of Crown Minerals licences were held on the West Coast coastline, including 5 years exploration licences by Grande and Widespread (he agreed to provide a copy of this map). A vessel was due to arrive in early 2009 to undertake exploratory work. He noted that miners are subject to a range of legislation, including Maritime New Zealand, the Exclusive Economic Zone regime (which has a Bill for this zone being processes that is similar to the Resource Management Act). He advised that an access arrangement with the Department of Conservation would be required to disturb any seabed within the 12nm zone.

Mr Beggs advised that there is active environmental protection within the industry, and marine platforms become reefs. He advised that the mining industry is prepared to put money into environmental credentials. Reinstatement of oil/gas fields after decommissioning leaves little or nil adverse impacts. Possibly some structures could remain if valued as reefs. The challenge to the minerals extraction industry is to design extraction technology that has acceptable impacts. The actual 'footprints' are likely to be no bigger than that of dredging of riverbeds. A site at the Sugar Loaf Islands Marine Protected Area (Taranaki) was able to be mined by a pipe sent into it sideways to address the protected status.

While it is possible that oil occurs offshore on the West Coast as seeps occur inland, such as at Lake Brunner, the extent of the oil reserves and their economic viability are unproven. Whether any possible oil fields would be inshore of 12nm or offshore is unknown, he noted that some Taranaki fields are inshore of 12nm. Both oil and gas miners will wish to explore everywhere on the West Coast and the MPA policy may result in areas being quarantined from exploration and so the mining industry will be very interested in the Forum's process. He hopes the Forum will seek effective compromises that achieve gains for everyone rather than rigid positions.

After Mr Beggs' presentation, there followed a general discussion. Eugenie Sage requested that the agencies generate a list of possible attendees to the Forum, such as representatives from the New Zealand Marine Sciences Society. Scott Williamson advised that a list of other stakeholders was contained at page 17 of the Guidelines. Bruce Watson thought it would be useful to seek the views of this group of stakeholders prior to the public consultation round. Eugenie Sage advised that the Consultation Sub-committee needs to have a more detailed timeframe to know when to seek input and Bruce Watson advised an agreed Report format is also required to focus input.

## 5.0 Application of Marine Protection Types

Campbell Robertson gave a Powerpoint presentation revisiting the MPA Policy, including the requirement for the establishment of "at least one sample of each habitat or ecosystem type in the network as a Marine Reserve" and that the number of replicate MPAs included in the network will usually be two. The Powerpoint presentation forms part of these minutes.

There was a discussion about mining in Marine Reserves and Bruce Watson queried whether a management plan had to be created for each marine reserve and whether the forum might wish to include such a management plan requirements in their recommendations possibly with some specific requirements. Campbell Robertson advised that for marine reserves gazetted after the introduction of the Crown Minerals Act (1991) mining was not be categorically prohibited. However the considerations were rigorous, and guidance from the marine reserve management plan would also be included in the assessment. So although mining is not prohibited outright, a high test is placed on the activity. It was noted that definitions of 'prospecting' and 'exploration' have changed as legislation has changed. Bruce Watson noted that a plan change might be required in terms of the Forum seeking modifications to the Regional Coastal Plan. For instance, possible recommendations by the Forum could include excluding the extraction of black sand, cobbles or driftwood from a coastal strip adjacent to a MPA. Denis Shannahan advised that the Coastal Plan is only four years away from the 10-year Plan Review.

Scott Williamson then presented information on type 2 MPAs. Other than marine reserves, which require legislation, regulation is really the only tool for type 2 MPAs. He noted that the Fisheries Act is designed to enable sustainable extractive use but not biodiversity protection *per se*. Currently there exist some 4,500 regulations relating to fishing effort but nothing currently in place that would apply either type 1 or type 2 MPA protection level standards.

The Regulations process is specified by section 297, usually s.297 (a) (VIII). Possible regulations must be *intra vires*, and must meet administrative law (reasonable, relevant, good process). The regulation process involves the proposal going through a public consultation process, then final advice being given to Minister of Fisheries, then onto Cabinet process. The Wellington Airport Case has defined the public consultation process. The Cabinet process usually takes 6-8 months and has the following steps:

1. Paper to Cabinet with input from the Economic Development Committee (part of Cabinet), a Regulatory Impact Statement and a Business Compliance Cost Statement
2. Consultation with other relevant government departments such as Ministry of Economic Development, Ministry of Justice, Department of Conservation, etc.
3. Economic Development Committee policy review
4. Cabinet initial approval
5. Parliamentary Counsel Office to draft legislation
6. Legislation Committee considers new paper
7. Legislative Committee approves paper
8. Back to Cabinet for final approval
9. Executive Council sign-off
10. Governor-General enactment
11. Published in New Zealand Gazette
12. 28-day no action rule

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Post the Cabinet process there is a report-back process to consultees, a publicity process and implementation process.

Scott further outlined the type of protection for a type 2 MPA as being:

Bottom disturbing fishing methods banned, so bottom trawling and fish dredging are banned as well as bottom seining methods. In fragile habitats other methods might be banned such as potting, long-lining, gill netting and also possibly diving. Activities that might be allowed include set netting and anchoring. The wording of regulations is important and there is plenty of room for problems to arise from poor wording.

In responding to a query as to whether mataitai reserves would meet the type 2 protection standard, Scott advised that mataitai reserves are not targeted at whole habitat marine protection but hands over the management of fishing effort to iwi and that usually commercial fishing is banned. Scott clarified that marine reserves have precedence over mataitai reserves and although Government can legislate across a mataitai reserve it would be unlikely. Scott further advised that mataitai reserve proposals are processed in the order that they are applied. He agreed that the order of processing and integration between Poutini Ngai Tahu mataitai reserve proposals and the Forum process is important. A gap in these two processes could be recreational fishing effort. Taiapure are very similar to mataitai reserves, and it depends on the management regime as to whether the taiapure could be classed as a MPA, but as none exist on the West Coast or are proposed, so this method does not need to be considered in the mix. Rick Barber queried whether customary fishing measures under the Foreshore and Seabed Act would meet the MPA test, and Sarah Wilson advised that this is a possibility.

**The Forum then proceeded to move into committee, as moved by Rick Barber/Carrol Browne. Carried**

## **6.0 Forum Timetable and Process**

The Forum moved out of committee late on the second day of their meeting, to review the public session minutes of 29 & 30 July. These minutes were approved, with the deletion of one queried sentence.

**Moved Kerry Eggeling/Brad Stenhouse Carried**

It was agreed that an information pack would be mailed to Forum members by 19 September, so that they can undertake informal discussions with interest groups, to be completed by the end of November.

The content of the October meeting was discussed and it was agreed that that meeting would focus on the public consultation process as well as the shape and format of the Report. The early November meeting may not be required as not enough consultation may have occurred, but the dates should be held at this stage. Scott Williamson noted that there are a lot of process decisions yet to be made, such as how the future decision-making will run within the Forum including how the Forum works with informal and submission feedback.

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### 7.0 Meeting Dates

The future meeting dates were reconfirmed:

- 6 October
- 4 & 5 November

A new meeting date was also decided, being 15 & 16 December. It was agreed that two-day meetings should finish by 3pm.

Meeting finished at 4pm.

Confirmed  
Bruce Hamilton  
Chair

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### Papers Tabled

1. Minutes of 29/30 July 2008
2. In-committee minutes of 20/21 May and 29/30 July
3. Supporting information on Minerals Industry Engagement
4. Maitaitai reserve & Taiapure Papers
5. Correspondence – Mike Patrick email
6. Candidate sites (revised) and coloured table of three areas
7. MPA Policy presentation -Powerpoint slides