



Public Discussion Document: Marlborough Marine Area Management Framework

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Purpose

This document captures and provides context for future discussions regarding potential frameworks (purpose, structure and governance) for marine management of the Marlborough's Marine Area. The document has been developed by the Marlborough Sounds Integrated Management Trust in association with the Marlborough community.

In terms of a process to fully develop such a framework it would be premature at this point to delve into detailed functions, roles, rules and structures. Whilst acknowledging that the detail of such elements is critical, that detail requires significant consultation, thought and discussion with all appropriate stakeholders.

Rather, the purpose of this paper is to outline broad concepts that demonstrate what elements might comprise such a framework and to broadly address what types of policy and what functions, again, might be required to implement/instil an integrated management model for the Marlborough's Marine Area. Such concepts are raised to help articulate how the future management of 'our place' could change and to assist to engage and facilitate further discussion with wider stakeholders.

Context

With that understanding, the Trust has seen that many sectors within our community are wanting and ready for a change to the existing management framework; a framework everyone agrees is failing to deliver good outcomes for the place and people alike.

This document has evolved from public forums on 14 May 2017 and 2 July 2017² which agreed that a special Marine Management Area, broadly modelled on the Great Barrier Reef Marine Park, would be good for the Marlborough marine environment. Detail to facilitate a shared understanding of potential management concepts and to invoke more in-depth conversation was provided between the Forums and submissions were received through an associated on-line questionnaire.

The current document reflects (and resolves where possible) questions and issues raised by people about the marine park concept by proposing a marine management area and describing how that might work in practice.

Whether such a framework could be enabled under existing legislation is a matter for future analysis.

This document does not seek to identify and address/resolve all issues or questions of detail'; the context of the document is to provide a platform upon which to further develop and refine a better future for Marlborough's Marine Area through an improved and integrated management regime.

Summary

The framework proposed allows for a multiple use management area with an integrated conservation and sustainability purpose at its core. To allow development and utilisation that sustains the integrity and ecological functioning of Marlborough's marine environment.

Zoning would protect special areas and help manage conflicting uses.

A stand-alone management agency would integrate protection and use. It would also integrate the overlapping roles of central and regional government and co-ordinate research and information needs.

The Framework

The *Marlborough Marine Management Area Framework* would provide for ecological sustainability and the long-term protection and conservation of the mauri, wairua, environment, biodiversity, and heritage values of the Marlborough marine management area.

The area would encompass the marine area administered by the Marlborough District Council. This area includes the ecological complexity of southern greater Cook Strait and the unique environments of the Marlborough's Marine Area. Its communities of interest are represented democratically by the Marlborough District Council, which, as a unitary authority, integrates local and regional interests.

The management area would enable nationally administered aspects of marine management to be meshed with the Council functions at a regional scale. Historically this national/regional integration has proven problematic, leading to many ad hoc initiatives which have failed to achieve a functional harmony.

The Framework would provide for ecologically sustainable use of Marlborough's Marine Area. To support this, it would encourage collaboration by Marlborough communities, tangata whenua, local and regional government, business, and industry.

How it would work

The Framework would:

1. Establish the Marlborough Marine Management Area.
2. Provide for control, care, and use of the Area.
3. Establish the Marlborough Marine Management Area Authority.
4. Provide for zoning plans and management plans.
5. Regulate use of the Area to be consistent with ecosystem-based management, and the principles of ecologically sustainable use.
6. Require complementary management of land catchments to sustain the values of the Area.
7. Facilitate partnership with tangata whenua in management of marine resources.
8. Facilitate a collaborative and co-designed approach to management.

The Marlborough Marine Area Management Authority

The functions of the Authority would be to:

1. Make recommendations to the Minister for the Environment and the Marlborough District Council about the care and use of the Marine Area.
2. Advise on any further areas that should be parts of the Marine Management Area and on regulations affecting the area.
3. Conduct and commission research and monitoring.
4. Prepare zoning plans for approval by the Minister.
5. Make management plans.
6. Advise the Minister on financial requirements.
7. Receive and manage funds for the management of the Area.
8. Provide educational, advisory, and information services.
9. Promote biosecurity practices that protect the environment of the Marine Management Area

The Authority would perform its functions in collaboration with the Marlborough District Council and other agencies as necessary.

The Minister for the Environment would appoint a Marine Authority Management Board.

The Framework would specify representation on the Board by tangata whenua, environmental, fishing, aquaculture, and community interests (with specification of the range of expertise that must be included in the individuals appointed).

Authority staff would be public servants accountable to the Board.

Zoning plans

Zoning would be used to regulate the use of the Marine Area to:

- (a) Protect marine ecosystems.
- (b) Ensure use is ecologically sustainable.
- (c) Manage competing uses.
- (d) Protect areas of high conservation value.
- (e) Protect and conserve biodiversity including ecosystems, habitats, and populations.
- (f) Minimise the adverse effect of activities, and ensure the ecologically sustainable use of the resources.
- (g) Protect the environmental, cultural, social, and economic values of the Marlborough marine area.
- (h) Provide for ecologically sustainable use of marine resources by tangata whenua.
- (i) Reserve some areas for public enjoyment and appreciation, including recreational and sustenance fishing.
- (j) Preserve some areas of the Marlborough Marine Management Area in a natural state.

Each zone would define the purposes for which the zone may be used or entered.

Each zone would have a specified purpose and principles, as well as rules.

Examples of potential zones are given in Appendix 1.

The principles for each zone would state the environmental, sociocultural, and economic objectives of the proposed zone which would aim to protect, restore or enhance associated values.

Before preparing a zoning plan the Authority would have to prepare a regulatory impact statement. This would cover the environmental, sociocultural, and economic values of the area, and the expected environmental, sociocultural, and economic effects of the zone.

Zoning would conform to Treaty settlements and would support tangata whenua use and care of the area. It would provide for identified critical habitats, and the presence of threatened and protected species. As far as practical, existing uses would be sustained. Zoning plans would be subject to approval by the Minister.

The effects of a zoning plan would be to:

- (a) Direct the work of the Authority.
- (b) Direct the work of DOC and MPI through Ministerial directions to support the zone objectives.
- (c) Provide performance standards for RMA policies and plans.

General duty of care

Every person who used or entered the Marine Management Area would be required take all reasonable steps to prevent or minimise harm to the environment.

Relationship with the Resource Management Act 1986, Marine Mammals Protection Act, Wildlife Act, Marine Reserves Act and Navigation and Safety Act

The Framework would specify its interaction with and reliance on other statutes.

The attached diagram¹ illustrates the relationships. The essence is place focussed integration at a regional scale.

This is already well provided for in the Resource Management Act for general environmental protection. In Marlborough, the Council gives expression to this through its Marlborough Environment Plan. Nationally administered environment law integrates more weakly at the regional level. This is in part because of the nationally focused administration and in part because of uneven provision for place based solutions that integrate at a regional level within the statutes themselves.

Those favouring the status quo will point to provisions for Conservation Management Strategies and Fisheries Management Plans, while those wanting change will point to the limits on integration in one and the lack of use of the

¹ See Appendix 2

provisions of the other. Suffice it to say, despite decades of opportunity, the integrated management of important marine areas in New Zealand has only happened where special Acts of Parliament have forced the linkages to occur.

So, the framework the Marlborough Marine Management Area would need to enable the formation of zones that did the detailed work of conservation and sustainable use fisheries resources while requiring the Council to make provision for achieving the environmental quality to protect those zones from adverse environmental effects, particularly from adjacent land use, amongst other things.

In the diagram we see application of the Framework setting standards for the next iteration of the Marlborough Environment Plan where these were needed to sustain special values at places.

Take the Havelock estuary at the head of the Pelorus Sound as a case example. This is the largest estuarine wetland in Marlborough. The Wriggle report shows it to be one of the most degraded estuarine wetlands by sediment in New Zealand. Within the Marine Management Area this could be an Estuarine Conservation Zone. As such, the Authority could, after due process, define principles for its management and create, if necessary, a management plan for its restoration. In the diagram we see the arrow go in both directions. This means that the Authority would need to take into account the policies and objectives set by the Council, while it kept focused on its core mandate of conservation and sustainability. As it applied the principles in the Framework, the Authority would define what was needed to sustain and restore the estuary. These would then set performance standards for the Council to meet in its provisions under the Marlborough Environment Plan.

In practice, this would likely result in changes in land management practices. It would not dictate what those changes specifically should be, rather how much sediment (by type) the estuary could handle to sustain (or restore) its values. In applying the Framework the Authority, the Council and stakeholders would work together to efficiently and effectively introduce appropriate land management practices. However, if there was conflict over the application of rules or hierarchy of objectives, the specific outcomes stipulated within the Framework would take precedence and, if challenged, the Environment Court would rule in favour of the Authorities standards, as long as they were based on due process and information.

On the right side of the diagram, we see zones being formed, and some of these directly implement the area based provisions of the Acts above - Fisheries Act for taiapure for example. The difference is that all of these zones would be formed at one time in an integrated process. Trade-offs between competing priorities for fishing and marine reserves, and displacement effects and their flow on for customary and commercial fishing would be considered as an integrated whole.

The Marine Management Area administration would not replace the general application of the Resource Management Act 1986. The Marine Management Area Framework would require RMA Plans and Policies to support Marlborough Marine Area objectives. For example, where zoning and Marine Area management plans identified values and their needs, RMA plans would have provisions to meet those needs. This would mean that land-use controls under the Marlborough Environment Plan would still be the main way sediment and nutrient run-off would be controlled to protect sensitive areas.

Legal protection of animals under the Marine Mammals Protection Act and Wildlife Act would remain a responsibility of the Department of Conservation. The Marlborough Marine Area Management Authority might create zones that supported their conservation, and make plans for their restoration within the Area.

Marine reserves would be created by zones and managed by the Authority. The Authority would be able to enter into agreement with DOC to manage land reserves and islands if this seemed appropriate.

The Authority would not have general jurisdiction over navigation and safety of marine craft. It would be able to make rules in zoning and management plans that controlled certain types of activity. This might include anchoring, or classes of hazardous activity, such as seabed mining.

Offences and penalties

Certain classes of activity might be generally banned in all parts of the Marine Management Area, or only allowed under permit from the Authority. This might include exploration and mining for hydrocarbons, for example.

The Framework would need carefully crafted offence and penalty provisions. Enforcement would need to include DOC, MPI and MDC, as well as Authority staff trained for this purpose

Management Plans

In addition to zones and their rules, the Authority would prepare management plans for the Area, much as DOC and Councils do for reserves.

The Authority would probably prepare a management plan for the whole of the Area, as DOC does for a region with its Conservation Management Strategies, ensuring the integrity of whole areas ecological functioning. It could also prepare a management plan for smaller areas, as DOC does for National Parks and some reserves. A management plan could be made also for species ecological communities or within the Marine Management Area where such species needed support for their recovery. Species plans might be created jointly with DOC for wildlife and marine mammals, and with MPI for species used as fisheries.

The common objective of all management plans would be to:

- (a) Reduce or eliminate threats (including biosecurity threats) to nature conservation values, cultural and heritage values, or scientific values.
- (b) Manage recovery and continued protection and conservation of species and ecological communities at risk.
- (c) Ensure ecologically sustainable use.
- (d) Sustain the association of tangata whenua with the marine environment.
- (e) Manage conflicts of use.
- (f) Create a basis for co-management and recognise communities of interest.
- (g) Enable people using the Area to participate in a range of recreational activities.

Staff and funding of the Marine Area Management Authority

The staff of the Authority would be engaged under the *State Sector Act 1988*. The Authority would be funded through appropriation from Parliament through Vote Environment, together with any regional contribution. The Crown might also provide funds to the Marlborough District Council, or other regional bodies, to support complementary measures, such as land use controls required to sustain the values of the Area.

Appendix 1 - Examples of Potential Zones for the Marlborough Marine Area

The zones set out below are an *a la carte* menu, illustrating the sorts of zones that might be established in the Marine Management Area. Actual zones and their objectives and rules would be worked out through collaboration with citizens and users of the marine environment.

General Use Zones

The objective of General Use Zones would be to provide opportunities for reasonable use of the Area, while still allowing for the conservation of these areas. All the usual, and existing, activities of the Area would continue in these areas; for example most fishing activities would likely be permitted in these zones along with general recreational activities. There would be an overall duty of care for all users added by the Framework.

Mataitai and Taiapure Zones

Mataitai and taiapure zones would be managed in the same way as such areas established under the Fisheries Act. Each area would have its own rules established by a committee formed by the tangata whenua iwi for the area (noting that many such committees include other users of an area). These rules would apply to everyone. In mataitai commercial fishing is excluded unless the rules allow, while in taiapure commercial fishing is allowed until there is a rule against it.

Fishing Zones

Fishing Zones could clearly indicate the importance of such areas to any, or all, of the fishing sectors. They could be used to spatially manage different fisheries and each area could have its own rules on methods and take to ensure an abundance of species and the protection of important biodiversity functions.

Aquaculture Zones

Aquaculture Zones would provide for sustainable marine farming, within the overall objectives of the Area. Within these zones, permitting for marine farms would remain as in other aquaculture management areas under the Resource Management Act, although each zone would specify environmental standards specific to the area.

Marine Reserve Zones

Marine Reserve Zones would be 'no-take' areas, and extractive activities like fishing or collecting would not be allowed without a permit. Anyone could enter a Marine Reserve Zone and participate in activities such as boating, swimming, snorkelling, and sailing. Travelling through a Marine Reserve Zone with fish on board would also be allowed. Fishing gear, such as rods with attached hooks, would be required to be stowed inboard the boat or in rod holders. Anchoring would also be allowed in a Marine Reserve Zone, however in high use and sensitive areas, use of

a mooring might be necessary, or there might be a no anchoring/mooring area defined by buoys.

Benthic Protection Zones

Benthic Protection Zones would provide for the protection and conservation of sensitive biogenic seabed habitats, while allowing the public to appreciate and enjoy the relatively undisturbed nature of the area. Trolling for pelagic fish species would be allowed in the Benthic Protection Zones. However, different forms of bottom contacting activity such as anchoring, trawling and dredging might be prohibited in this zone; according to the resilience of the seabed habitat of the area.

Estuarine Conservation Zones

Estuarine Conservation Zones would provide for the protection (and restoration) of areas of estuaries in a natural state while allowing the public to appreciate and enjoy the relatively undisturbed nature of those areas; to maintain ecological function, fisheries production and use; and to provide for traditional hunting and gathering.

Preservation Zones

Preservation Zones would be 'no go' areas for special sensitive habitats, such as a King Shag nesting area. A person could not enter a Preservation Zone unless they had written permission, and extractive activities would be strictly prohibited. A permit would be required to conduct research in this zone. Research could occur in a Preservation Zone, if it could not be undertaken elsewhere, but only if the research was relevant to, and a priority for, management.

For Illustrative Purposes Only

Appendix 2: Illustration of Regulatory Interactions.

