

# An oceans policy for New Zealand: why, what, how?

## C M Risk

Office of the Hon Pete Hodgson, Parliament Buildings, Wellington, [carolyn.risk@parliament.govt.nz](mailto:carolyn.risk@parliament.govt.nz)

## Abstract

The paper sets out the reasons why an Oceans Policy is being developed for New Zealand and how it will fit within the management framework to govern activity in the marine environment. It provides a brief overview of the history of the development of an Oceans Policy and describes the context in which the policy will be developed and the principles that will inform the process by which it will be developed.

## The story so far

### Background

Aotearoa/New Zealand is an island nation. All of those who came to live on its land first crossed the sea to get here. Maori legend tells us that Maui fished the North Island from the sea. Our sense of ourselves, our connection with the rest of the world, our isolation from the rest of the world, and our ability to support ourselves on the land has always been linked to or defined by the sea.

Accordingly, New Zealand has been developing management responses for the marine environment for as long as people have been occupying the terrestrial environment.

Mining, fishing, transport, communications, defence, and recreation – all have been subject to management frameworks for long periods of time. The management responses developed reflected our needs and aspirations for those activities and the state of our knowledge of the marine environment itself.

The concept of formally addressing all of those activities in combination, addressing their relationship with each other and their significance relative to each other was identified as important over thirty years ago, even prior to New Zealand declaring an Exclusive Economic Zone.

The development of a National Coastal Policy Statement and the Resource Management Act reflect the recognition of the need to consider a range of issues when developing management responses for the marine environment. However, even these responses are piecemeal and do not comprehensively address the range of activities undertaken in the oceans – with the obvious example of fisheries management being excluded from the ambit of the Resource Management Act.

In recent years there has been renewed momentum to calls for an overarching policy framework for our oceans. In 1998 the Environment and Conservation Organisations of New Zealand (ECO) hosted the *Seaviews – Marine Ecosystems*

*Management Obligations and Opportunities* conference to address issues of oceans governance.

In March 1999 the then Ministers for the Environment, Conservation and Food, Fibre, BioSecurity and Border Control directed officials to investigate current arrangements for the management of New Zealand's marine environment. The nature of the issues identified out of that review was such that it was a clear a whole of government response was required. Accordingly, the Department of Prime Minister and Cabinet was given the responsibility to manage the project.

In October 1999 the Centre for Advanced Engineering at the University of Canterbury hosted the *Our Oceans* conference, which further considered issues of oceans governance and management.

In November 1999 there was an election and a change of government. In December 1999 the Parliamentary Commissioner for the Environment tabled his report *Setting Course for a Sustainable Future – The Management of New Zealand's Marine Environment*. One of the recommendations of the report was to develop a long term strategy for the marine environment.

### Scope of the project

In March 2000 the Prime Minister delegated to the Hon Pete Hodgson the responsibility for developing an Oceans Policy to provide an overarching framework for managing all aspects of our use of and interaction with the marine environment.

In July 2000 Cabinet established an ad hoc group of six Ministers with delegated responsibility for developing the Oceans Policy. The Committee comprises The Hon Pete Hodgson, Chair – Minister of Fisheries, Minister of Energy and Minister of Research, Science and Technology, the Hon Phil Goff – Minister of Foreign Affairs and Trade, The Hon Sandra Lee – Minister of Conservation, The Hon Parekura Horomia – Minister of Maori Affairs, the Hon Paul Swain – Minister of Commerce and Associate Minister of Energy and the Hon Marian Hobbs – Minister for the Environment.

Cabinet also agreed that the Oceans Policy should identify clear goals and principles for managing the oceans and provide an integrated framework within which to undertake management of human impacts on the marine environment.

In September 2000 Cabinet approved the scope of the project being

To focus on issues associated with managing the marine environment within the jurisdiction of New Zealand and the interaction between land management and the status and quality of the marine environment and the intertidal zone, but will not address issues relating to New Zealand's management of or involvement in the Southern Oceans or wider South Pacific region.

The scope of the project reflected key decisions about a number of important issues. First, it was agreed that the project would focus on that part of the marine environment for which New Zealand has domestic jurisdiction. It would not focus on issues relevant to New Zealand's obligations at an international level (whether regionally within the Pacific or wider international involvement), other than to ensure the appropriate commitments were reflected in the policy ultimately developed.

This was not because those issues are not important. They are. But, the issue of developing a single policy to provide the framework for our management responses to an area fifteen times larger than our land mass, seemed like a big enough issue to be getting on with in the meantime.

Of course, the stance New Zealand takes in international fora will be informed by what we are doing domestically and vice versa. Just because the scope of the Oceans Policy project does not include international issues does not mean that New Zealand does not continue to be involved in such international issues. It just means that that work is not part of the work programme of the Oceans Policy.

It was also important that the scope of the project explicitly recognised the interaction between land use and marine management. It was not credible to set out to address issues of marine management as though the only things relevant to the quality of the marine environment were those things that actually happened in the marine environment.

## Why does New Zealand need an Oceans Policy?

### Context

The sea that surrounds us and for which we have lawful responsibility under international law – that is our Exclusive Economic Zone – is the fourth largest in the world and is a complex and dynamic environment.

It plays a central role in the natural cycles of New Zealand's environment in relation to climate, the overall health and integrity of the environment and is central to New Zealand's biodiversity and bio-security.

The 480 million hectares of our EEZ range from subtropical waters to sub Antarctic islands, and from shallow inter-tidal estuaries to seabed trenches as deep as 10km.

New Zealand's oceans contain between a third and three-quarters of all of our native species. To date, over 8,000 marine species have been identified – including 61 seabirds, 41 marine mammals, 964 fish, 2000 molluscs, 300 sponges, 400 echinoderms, 900 seaweeds and 700 species of micro algae. Many of these species are unique to New Zealand.

The coast line that connects our land mass and our oceans is shaped by a wide variety of tidal conditions, gradients in water saltiness in and around estuaries, fiords, and harbours, differences in water clarity and the movement of sediments. Two thirds of our coast has a rocky shoreline and one third is made of sand, mud or gravel. A fifth of the coastline is in sheltered harbours and estuaries.

Our land mass is small and narrow and we primarily populate its edges – congregating with increasing density on preferred parts of its coastline. By international standards, all New Zealanders are coastal dwellers – even those whom local standards would describe as inland dwellers - given how hard it is to actually live any great distance from the sea and coastline in New Zealand.

Accordingly, a significant number of New Zealanders have a personal relationship with the marine environment and seek to interact with it for a variety of reasons – spiritual, cultural, emotional, recreational and economic in nature – and for many it is part of what defines being a New Zealander.

The marine environment is also central to our economic activity both directly and indirectly. Directly, the value of extractive uses such as mining and fisheries and non-extractive uses such as tourism and recreational activity, contribute significantly to our annual economic performance. Indirectly, shipping lanes and underwater communication cables underpin the infrastructure required to function as a modern economy connected to a global market.

For these reasons we have progressively developed a set of rules and processes to govern and manage the various sorts of things we do with and to the marine environment. Within both the public and private sectors, as well as amongst the general public and others with specific interest in the marine environment, considerable time and money is invested in participating in the processes associated with those management rules.

At both a domestic and an international level we have addressed management challenges and developed sophisticated and complex systems in response. Declaration of an Exclusive Economic Zone and introduction of a Quota Management System are but two examples of management responses to our interaction with, and use of, the marine environment.

It is clear that we already have an extensive range of management tools to use to interact with the marine

environment. Some of the rules and processes we have developed to manage aspects of what we do in the marine environment are world leading and most of them work well enough to achieve the purpose for which they were developed.

### **Problem definition**

The need for an Oceans Policy doesn't arise because we currently have a lack of rules to govern particular activities within the marine environment or even because those rules don't do what they were designed to do.

So why do we need an Oceans Policy? What is the gap that it needs to fill?

As a result of our interaction with and use of the marine environment we increasingly understand it as a natural system comprised of a number of distinct but interconnected components. However, the responses we have developed to manage in the marine environment remain discrete, self contained and largely independent of each other.

The various policy responses we have developed are each for a single purpose. They have been developed by reference to the needs of a single activity and draw primarily on the expertise and disciplines of that sector and those who care about the specific activity.

We do not have well developed connections between the separate systems and processes. It is for instance entirely possible, for two separate Ministers of the Crown exercising separate statutory powers to make different and conflicting decisions in relation to the same piece of seabed.

Compartmentalisation of responsibilities means that a single agency may not have the extent of authority necessary to manage the full range of influences on its particular activities – for instance the different management regimes in place either side of the 12 mile limit.

Jurisdictional arrangements that are more about the history of institutional arrangements we have developed than the physical reality of the marine environment, mean that there are arbitrary points at which particular responsibility stops, even if the problem doesn't.

Decisions about one activity can be made in isolation from the reality that other activities are also being undertaken in ways that may be relevant. An applicant seeking permission to undertake one activity may have invested considerable time and money in the process relevant to them before becoming aware that an application for another process being managed by another agency could preclude a successful outcome for their application.

Processes are independent of each other and specific to the agency managing that part of the process. To address a single issue of importance to them, those with comprehensive interests in the marine environment may need to be involved in sequential or concurrent processes. This can spread their

resources to breaking point or have a detrimental impact on the cost benefit analysis undertaken at the outset.

We have not yet systematically identified what we actually want to achieve as a result of the totality of our interaction with the marine environment. What are our goals and aspirations in relation to it? What are our priorities? How do we choose when confronted with competing opportunities or outcomes?

It is this gap that the Oceans Policy is intended to fill – provide ways to reconcile conflicting goals and competing interests in relation to the marine environment.

## **What will the Oceans Policy do?**

The Oceans Policy will be the way we describe what it is that is important to us about our marine environment – what it is that we most want to achieve from our interaction with it. It will identify what role it has in our lives, describe its contribution to us as individuals and communities, and what rights and responsibilities we each have in relation to it. It must also provide us with ways of monitoring the extent to which our values and aspirations change to ensure that we develop the flexibility and agility to allow us to respond effectively to the changing context in which we interact with the marine environment.

The Oceans Policy will be the means we give ourselves to efficiently achieve all the things we need from the marine environment. It will provide the guidance and direction for those making decisions about priorities and allocation of resources and allow us to identify priorities – what we value most in a given situation and why. It will provide us with the tools to reconcile competing objectives and allow us to respond to opportunities and challenges of which we are not yet aware but which are undoubtedly ahead of us.

In addition to allowing us to collectively achieve those things we have identified as important to us, it will also allow individual decision makers to be more confident of outcomes and be clear about when and how allocative choices get made.

Do we want to mine a seamount or harvest the fish that live on it or preserve it and protect it from any human activity?

What do we need to know most about next? More research about ecosystems? More fish stock assessments? More information about the composition of the seabed?

When confronted with opportunities made possible by new technology or new information on what terms might we proceed to take advantage?

The Oceans Policy will provide the means by which these questions are asked and answered at the beginning of any process and not in the middle or at the end of an expensive and time consuming bureaucratic process.

However, there will continue to be a need for rules specific to each sector and activity and the Oceans Policy will not address at an operational level the way we conduct discrete activities and functions. Although it is likely to require modification or addition to those rules in itself it will not be the means by which we undertake activities specific to a particular sector.

What the Oceans Policy will do is provide a framework within which to govern the totality of our interaction with the marine environment. Rather than provide the detail of how we undertake any one activity, it will identify the goals and objectives for managing the marine environment, identify the best way to achieve those goals and the operational elements necessary for the framework to be both credible and enforceable.

It will provide the direction to ensure we do different things in ways that are consistent with each other. It will express the values and principles that must be common to all the processes we use to manage discrete and independent activities in the marine environment.

It must accommodate the reality that different activities require different technical skills and expertise to respond to the management challenges associated with them but also ensure that there are consistencies of outcome and process used.

How it will do this is not yet known. It is too soon to know yet the exact combination of legislative and institutional change that will be necessary to ensure the Oceans Policy does fill the gap identified.

Some say it needs a "Blue RMA". It may do. But it may not. Some say it needs a single focus super Ministry responsible for all aspects of marine management. It may be that is an outcome. It may not be.

## How will we develop an Oceans Policy?

### What do we want and why?

Cabinet agreed that the Oceans Policy be developed in three stages with Stage One being to *Define the Vision*, Stage Two to *Design the Vision* and Stage Three being to *Deliver the Vision*.

The major focus for Stage One was a public consultation process to provide New Zealanders with an opportunity to participate in the process of defining the vision for New Zealand's oceans. The public consultation undertaken asked New Zealanders about their about vision and values for the marine environment.

Why were those questions asked first?

As noted, a key function of the Oceans Policy will be to assist in making choices. The nature of those choices is about alternatives - a genuine choice between different things.

They are not choices about which is the better apple – they are choices about whether we want an apple or an orange – or indeed whether we actually want a fruit salad with a little bit of everything.

So, if the decisions we have to make are about choosing between apples and oranges – not what is the best apple - empirical information about what constitutes the best kind of apple is not the most useful to have available to you when making the decision.

To make decisions of this kind you need to have information about what is important to people and why. You need information about their values and the significance they attach to particular outcomes and the relative importance of one over the other.

For that reason the first stage of the process to develop an Oceans Policy did not consult on how to do anything. It did not present four different ways of building a widget and ask people to vote for their preferred method.

Instead, it asked people what they wanted. What did they want to happen? What did they not want to happen? Why was that important to them?

In other words, the opportunity was to describe their vision for the marine environment and identify the values and principles they believe should inform the way we make decisions and the things we do to achieve that vision.

Cabinet agreed in September 2000 that following a public nomination process a Ministerial Advisory Committee would be appointed to undertake that consultation process.

Ninety-two nominations were received from 28 organisations, with a number of nominees being endorsed by more than one nominator.

In March 2001 Cabinet appointed an eight person Ministerial Advisory Committee on Oceans Policy chaired by Dame Cath Tizard. The other members of the Committee were David Anderson, Mark Bellingham, Rikki Gage, Mac Beggs, David McDowell, Abby Smith and Wally Stone.

The Committee was required to undertake its consultation and report to Ministers by 30 September 2001. It did so. In June, July and August it held 47 public meetings and 24 Hui throughout New Zealand (including Steward Island and the Chatham Islands) and received 1,160 written submissions.

The Committee's report on the outcome of its consultation, *Healthy Sea: Healthy Society – Towards an Oceans Policy for New Zealand*, was presented to joint Ministers at the end of September for their consideration. A full copy of that report and an analysis of the submissions received can be found on the website [www.oceans.govt.nz](http://www.oceans.govt.nz).

The Committee found, amongst other things, a widespread endorsement of the need for an Oceans Policy and common ground that water quality was important and that what

happened on the land was an important feature of what happened in the water. Although there was a general acceptance that the status quo was not an option there was limited agreement on what to do instead – aside from the fact that most people seem to think it should involve someone else changing their behaviour!

Following consideration of the report by the ad hoc Ministerial Committee Cabinet agreed to a vision for New Zealand's oceans

Healthy Oceans: New Zealanders understand marine life and marine processes and accordingly, take responsibility for wisely managing the health of the ocean and its contribution to the present and future social, cultural, environmental and economic wellbeing of New Zealand.

Cabinet also identified the key policy issues that would need to be addressed in order to develop a policy capable of achieving that vision as

- Models for Integrated Management
- Holistic Management of the Marine Environment
- Compliance and Enforcement Regimes
- Decision making models
- Treaty of Waitangi
- Information Management in Relation to the Marine Environment and
- Monitoring and Measurement Processes.

Officials have been directed to report to joint Ministers by 31 March 2002 with a work programme and timetable for completion of Stage Two.

As will be clear from that list the policy will not be developed at an operational level but at the level necessary to provide common points of reference for the successful operation of discrete and independent management regimes.

### **Structure of the process**

It is too soon to know how an Oceans Policy will actually work – and as no other nation has successfully developed and implemented an Oceans Policy to do all those things – there is limited information available to us internationally on what will work.

But it is possible to identify the kind of process that will be necessary to successfully develop an Oceans Policy and there are parts of the process that have already been completed that can be described and from which lessons can be learned.

One of the constants provided by the Hon Pete Hodgson at the outset of the project was that the status quo was not an option. So, if the status quo is not an option in terms of policy outcomes it is not likely that the status quo will provide all the answers in terms of process.

The status quo should not be overlooked when seeking answers, and it is a good place to start, but it is not a good

place to stay when developing a process capable of delivering answers different to those we already have.

The Oceans Policy is a strategic project about managed change. So there are some things about the process to develop an Oceans Policy that have been different from the beginning.

The ultimate responsibility for developing an Oceans Policy rests with the ad hoc group of Ministers appointed for that purpose by Cabinet. To support them in that responsibility they do not have a single lead agency with responsibility to consult with other agencies and co-ordinate the responses. They have the Oceans Policy Secretariat – a group of officials drawn from the relevant agencies – that is co-ordinated from the office of the Hon Pete Hodgson. The officials remain based in their respective agencies and are collectively responsible for supporting the ad hoc Ministerial Group as required. Individually they are responsible for ensuring that their agencies are informed and aware of the work of the project and that the project is aware and informed of the relevant work of the agency.

The scope of the project as defined by Cabinet was important when identifying the agencies to be involved in the project. In addition to the relevant central government agencies – Customs, Department of Conservation, Department of Prime Minister and Cabinet, Land Information New Zealand, Maritime Safety Authority, Ministry of Defence, Ministry for Economic Development, Ministry for the Environment, Ministry of Fisheries, Ministry of Foreign Affairs and Trade, Ministry of Research Science and Technology, State Services Commission, Te Puni Kokiri, Ministry of Transport, the Office of Tourism and Sport, Treasury - it was important to include Local Government as well. This reflected the relevance of land based management to the scope of the project.

A deliberate decision was made to involve Local Government directly and not by way of the relevant central agency the Department of Internal Affairs – and accordingly an official representative of Local Government has been a member of the Oceans Policy Secretariat Officials Group throughout the project to date.

For Stage Two the central government agencies will include the Ministry of Agriculture and Forestry – reflecting the significance attached to biosecurity and land management issues in the course of Stage One consultation.

### **How to achieve the vision?**

Only after identifying what it is that you are trying to achieve can you begin to develop ways to do it. Stage One was about defining what we want to happen and why so Stage Two will focus on how we might do things to ensure we achieve what New Zealanders want for their marine environment.

The Oceans Policy will obviously be a success if it generates a legal and policy framework that is capable of providing an overarching framework within which to manage conflict and make choices about our use of and interaction with the marine environment.

To do that the process must achieve three things in addition to generation of comprehensive and considered policy outcomes.

It must educate and inform New Zealanders about why an Oceans Policy is needed and what it will do. They must understand where it fits in the tool box and what they can reasonably expect it do to and know what it will not seek to do for them

It must then get them to accept and understand that this is a collective responsibility and that there are no easy solutions that require only other people to modify their behaviour and allow us to keep doing everything we have always done in the same way we have always done it.

In other words, at the end of the process New Zealanders must all understand and accept that there is no “they” who will fix this problem. There is only “us” and we must do it together – or we will all fail and suffer the consequences of that failure.

The last thing the process must do is engage people in ways that mean that having understood the first two points they continue to be willing to participate and contribute to that process.

That means that in Stage Two when considering the “How” question having now answered the “what and why” question it will be important to all those with a contribution to make have an opportunity to make it. The process to identify new ways of doing things will in itself have to be new. Full opportunities to test assumptions and think around corners and outside of boxes must be a feature of the process to get to new answers or different combinations of existing answers.

The expertise and experience of the public sector must be augmented by the expertise and experience of those outside the public sector and throughout the process – not just at the conclusion.

While it is not possible to know yet what the answers to all the questions will be it is clear that it will require change. Change to attitudes and behaviours - definitely. Changes to policies and procedures - inevitably. Changes to legislation and institutional arrangements – probably.

And it is important to note that such changes will not just be required from the public sector agencies involved in managing our interaction with the marine environment.

Stakeholder organisations and structures will also need to change and assess their role and contribution to the process. The structures used by them are currently just as discrete and compartmentalised as those of central agencies. Stakeholders too will have to find ways of communicating across sectors

and accommodating the range of legitimate interests that will be identified by the Oceans Policy.

### **Process principles**

When discussing the process to develop an Oceans Policy in the course of the consultation process for Stage One the Chair of the Ministerial Advisory Committee, Dame Cath Tizard, developed what she called the Rachel Hunter principle “It won’t happen over night – but it will happen!”

It won’t happen overnight and it won’t happen readily or easily. But it will happen – because all agree that the status quo is not an option. So how might it happen?

It is possible to make some clear statements about how an Oceans Policy must be developed if it is to succeed in filling the policy gap identified. There are many variables about the process but there are some fixed points of reference about the kind of process that will be used as well.

When he launched the project in September 2000 the Hon Pete Hodgson said that some features of the policy development process would remain constant.

The first is that the focus will be on the marine environment above all other things. How we value it, how we use it, how we protect it, how we ensure its quality centuries from now.

The second is that the process must be democratic. It must involve everyone who wishes to be involved – Maori, local government, sector groups, individuals.

As he noted at that time that’s not just because democracy is a good thing. It’s also because the job is too big for a Government to tackle on its own.

It is important to understand that the responsibility for effectively and constructively managing our interaction with the marine environment is not just that of government. Government has a significant responsibility and makes an important contribution to the chances of succeeding – but it can’t itself do all of the things that must be done.

There is a range of reasons for that. One of the most compelling is that although we have the fourth largest EEZ in the world we don’t have the fourth largest population base or economy in the world from which to operate when discharging the management responsibility that goes with sovereignty of our EEZ.

The process to develop an Oceans Policy must therefore, provide opportunities for the participation and contribution of all those with an interest in and commitment to the health of the marine environment.

And that should mean every New Zealander.

## **Author**

CAROLYN RISK has since May 2000 been based in the office of the Hon Pete Hodgson as a senior ministerial policy advisor and is responsible to the Minister for managing the project to develop the Oceans Policy. She is on secondment from her role as manager, Operational Policy with the Ministry of Fisheries. This role involved managing the three regional policy teams within the Ministry, the Science Policy team, the work of the Ministry in relation to international obligations and the Treaty of Waitangi and responsibility for providing advice to Ministers on sustainable utilisation of fisheries as well as service delivery in relation to conduct of registry services managing the quota management system. Before this Carolyn managed the Ministry of Fisheries Legal Team for three years and was a partner in a Christchurch law firm with a practice in general litigation.