

OCEANS POLICY SECRETARIAT

WORKING PAPER SUMMARY
14 March 2003



OCEANS POLICY

Issues with the current oceans management system

The following summary should be read in conjunction with the eleven working papers that have been prepared on Oceans Policy issues:

- Paper One: Information Issues**
- Paper Two: Ocean Use Rights**
- Paper Three: Maori and Oceans Policy**
- Paper Four: Environmental Issues**
- Paper Five: The Land-Sea Interface**
- Paper Six: Marine Biosecurity**
- Paper Seven: Marine Cultural Heritage**
- Paper Eight: Participation in Oceans Management**
- Paper Nine: Adapting to Future Changes**
- Paper Ten: Encouraging New Opportunities in the Oceans**
- Paper Eleven: International Oceans Issues**

Our initial analysis suggests that many of the problems articulated in the eleven papers can be fitted into four broad areas. A common theme is the lack of integration between legislation, policy, decision-making, and activities in the marine environment. The four areas are:

1. Differing, and sometimes conflicting, philosophical drivers and objectives across key statutes governing oceans management
2. Some statutory gaps, particularly outside the 12 nautical mile limit
3. Implementation difficulties, or a failure to implement current laws in an integrated and collaborative way, by different agencies
4. The need for better information.

Differing philosophies

There are inconsistent statutory approaches to reconciling competing interests, achieving environmental protection, and involving the public in decision-making. This can lead to unnecessary divisiveness and cost. Particularly at issue appears to be integration between the Fisheries Act, the Resource Management Act (RMA) and the Marine Reserves Act.

Statutory gaps

This is a particular issue beyond the territorial sea. With the exception of rules under the Maritime Transport Act, there are limited statutory requirements for assessing environmental impacts of activities, or for public participation in decision-making. For example, the Continental Shelf Act does not provide opportunities for environmental assessment, public participation or setting monitoring requirements.

Also, there are no formal processes to deal with competing or conflicting uses (for example, use of a seamount for conservation purposes or for mining or trawling), or to enable new uses such as aquaculture. In the limited number of cases to date, decisions have been of an ad hoc nature and reliant on the discretion of Ministers and officials. With advances in technology, it is likely that these pressures will increase in the future.

Within the territorial sea, there are questions as to whether the RMA allows for good decision-making between competing uses (as opposed to decision-making between use and non-use), whether the Act is sufficiently able to deal with cumulative effects, and whether there are adequate statutory mechanisms within the Act or elsewhere for the protection of marine cultural heritage of national significance.

There are also differences across legislation in relation to decision-making processes, with the Fisheries Act in particular seeming to have less obviously transparent and participatory decision-making processes than some other legislation governing our oceans.

Implementation difficulties

Statutory (and other) implementation tools are not being fully utilised.

Although the RMA provides for strategic and integrated decision-making, there are questions of capacity at local authority level, and suggestions that the 'political' nature of decision-making can make it difficult for 'hard' decisions to be made. There are still serious problems with the land-sea interface, with increasing land-based sources of marine pollution.

There are clear suggestions that there should be more collaboration between central and local government (e.g. more involvement by the Ministry of Fisheries in coastal planning) and more guidance, for instance through more rigorous standards being applied and monitored through the New Zealand Coastal Policy Statement, or through other central government leadership.

There is a wide range of tools available to address Treaty of Waitangi issues and to ensure that Maori values are incorporated into oceans management and decision-making. However, there is still not much experience with how and when the various tools should be used. Both the Crown and Maori are still feeling their way, and need to learn more about which tools are best suited for different needs.

Implementation of the Fisheries Act has, to date, focused around managing particular fish stocks, despite the existence of wider environmental principles. The proposed Strategy for Managing the Environmental Effects of Fishing signals an intention to make more effective use of the tools available in the Act.

In other cases, there appears to be lack of clarity about what statutory (or other) mechanisms to use in what situation. For example, there is a range of mechanisms for protecting marine sites, but no overall strategy as to what mechanism to use when (although a Marine Protected Areas Strategy is currently being developed).

In the biosecurity area, there is not currently the capacity to deal effectively with prevention and incursions. A national strategy is being prepared to establish better connections between the different laws and institutions. This has particular importance for the marine environment.

Uncertainty about responsibilities around the mean high water springs mark boundary has proved frustrating for decision-makers.

Other implementation issues relate to enforcement capacity and lack of funding, skills or information.

Information needs

This is a two-fold problem. Firstly, we lack a shared understanding and approach to what data are collected and for what purposes. Secondly, there is inadequate accessibility and co-ordination of information that is already held. These factors make it difficult to assess the adequacy of our existing data-sets for management purposes, and perpetuate the need for unnecessary duplication of data collection.

If we address these problems properly, we can then identify our information gaps and give them research priority.

Better public information and education about marine and coastal issues would help people to understand their impacts on the oceans and improve compliance.