

X.1 TAWHARANUI MARINE RESERVE PROPOSAL

P017-34

Lance Vervoort, Director Parks and Recreation and Simon Roche, Executive Project Leader: 23 June 2005

X.1.1 EXECUTIVE SUMMARY

The purpose of this item is to present the Committee with an update on work relating to an existing resolution on the Tawharanui Marine Reserve proposal, to present the Committee with options for progressing the application and to seek endorsement for a preferred option.

The current resolution, passed in March 2001 (and updated in May 2002) to apply for a marine reserve over the existing Tawharanui Marine Park (and a possible extension to it), is:

That the Committee endorse an application to the Director General of Conservation for marine reserve status for Tawharanui Marine Park.

That the existing marine park status be retained until such time as the marine reserve application is approved and implemented.

Since that resolution was passed further work, including consultation and scientific research, has been carried out. In recent months the results of this have been considered and options for progressing the application have been developed.

In summary this item briefly sets out:

- The background to the existing Tawharanui Marine Park;
- The values of the Tawharanui Marine Park;
- The reasons for applying for marine reserve status;
- Actions to date (including consultation with key stakeholders and the public);
- Possible expansion of the area to be covered by the marine reserve (that is not covered by the marine park);
- Process for establishing a marine reserve and the possible costs;
- Options for progressing an application; and
- Potential timeframe.

X.1.2 THE BACKGROUND TO THE TAWHARANUI MARINE PARK

The Tawharanui Marine Park is located on the northern side of the Tawharanui Peninsula and abuts the Tawharanui Regional Park. It covers the area from Mean High Water Mark to half a nautical mile (926 metres) seaward, for a length of three kilometres. A map showing the extent of the marine park (and the possible proposed extensions to it) is included as Attachment 1.

The Auckland Regional Authority established the Tawharanui Marine Park in 1981. It was promulgated using regulations under the Fisheries Regulations and the Harbours Act. It was the first marine park established under this legislative regime.

The Fisheries Regulations, administered and controlled by the Ministry of Fisheries, (Mfish) protect all marine life within this marine park by prohibiting the taking of it, i.e. no fishing or taking of shellfish. The Harbours Act was used to control activities and structures within the marine park boundaries. The RMA, and the Regional Plan: Coastal now control activities and structures within the marine park. The park is 'zoned' Coastal Protection Area 1 under the Regional Plan: Coastal and this is the most restrictive zoning in that plan.

X.1.3 THE VALUES OF THE TAWHARANUI MARINE PARK

The geology of the marine park mimics that of the adjacent Tawharanui Regional Park. The western end of the marine park is characterised by exposed beaches overlaying greywacke bedrock. The eastern end is characterised by rocky outcrops near Tokatu Point. The low unmodified dunes back the beaches and are colonised by pingao, a regionally rare native sand sedge. The area is also a nesting site for the rare New Zealand dotterel, the threatened variable oystercatcher and pipits.

The beaches and near shore areas support populations of tuatua and scallops. The beaches are broken by two rocky reefs areas (Comet Rock and Phoenix Reef) and these have numerous rock pools supporting a range of inter-tidal organisms.

Forty species of fish have been recorded within the marine park, including eagle ray, yellow moray eel, longsnout pipefish, red banded perch, butterfly perch, kingfish, silver drummer, blue maomao, banded wrasse, leather jacket, schnapper and red moki. Crayfish are also present in the rocky areas. Dolphins and whales are also commonly observed within the park.

X.1.4 THE REASONS FOR APPLYING FOR MARINE RESERVE STATUS

Marine reserves are established under the Marine Reserves Act 1971. This Act establishes the purpose of the marine reserves:

*"...preserving, as marine reserves **for the scientific study of marine life**, areas of New Zealand that contain underway scenery, natural features, or marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their continued preservation is in the national interest". [emphasis added]*

Marine reserves provide the strongest and most widely recognised 'preservation/protection' mechanism with respect to the coastal marine area. The marine reserve status would preserve the values of the marine park area (covered in the section above) for the scientific study of marine life. The Department of Conservation (DOC), which manages all marine reserves, would primarily undertake the management of the reserve. That organisation has considerable experience in managing marine reserves, and importantly has dedicated marine reserve personnel.

While it is considered that the Tawharanui Marine Park clearly falls within the criteria for a marine reserve, it is acknowledged that the current park status does prohibit the taking of marine life. However the enforcement of the existing Fisheries Regulations is the responsibility of Mfish.

The ARC has in the past voiced concern to Mfish about the lack of enforcement being undertaken. Also the ARC's park rangers have until recently been warranted to be honorary fisheries officers. At the request of Mfish these warrants have been

relinquished as Mfish has a limited quota of honorary fisheries officers throughout the region and the large number of rangers as honorary officers was impacting on the ability to introduce more honorary fisheries officers in areas outside the regional parks network. Park rangers are continuing to assist Mfish in an educational role, however this further exacerbates the concern about the lack of enforcement of the regulations.

X.1.5 ACTIONS TO DATE (CONSULTATION WITH KEY STAKEHOLDERS AND THE PUBLIC)

Since the Committee's resolution, the ARC has drafted a consultation document, publicly notified it, held a number of meetings and received submissions. This process occurred during early to mid 2003.

Eighty-seven submissions were received and these generally fell into three 'camps'. There are: those who did not want a marine reserve as they did not want DoC managing it; those who did not support the expansion of the boundary seaward to include a reef due to this being a popular fishing spot; and those who supported the marine reserve. Ngati Wai, the Tangata Whenua of the area, supported the marine reserve proposal. The clear majority of the submissions were in the former two categories, with the expansion being the most common issue raised.

X.1.6 POSSIBLE EXPANSION OF THE AREA (IN ADDITION TO EXISTING MARINE PARK) TO BE INCLUDED IN A MARINE RESERVE

As part of the consultation on the possible marine reserve, an expanded area (in addition to that covered by the marine park) was proposed (this is shown on the map in Attachment 1). The main reasons for this were the values of the marine life within that area and for practical and administrative reasons.

The ARC and the University of Auckland have done a considerable amount of additional marine research within the marine park and the proposed expanded area since the Council passed its initial resolutions. In summary it has shown that:

- Protection from fishing has allowed crayfish to grow bigger and more abundant in the marine park. Crayfish from the marine park undertake seasonal offshore movements of hundreds of meters to several kilometres to feed and release larvae. While offshore they form large aggregations. Because of this, and the fact that feeding rates peak during offshore movements, crayfish are particularly vulnerable to capture by commercial fishers during these periods.
- The snapper population has also recovered within the marine park, with legal sized snapper estimated to be around nine times more abundant in the marine park than in adjacent fished areas.
- The higher number of predatory fish and crayfish has reduced the number of kelp-grazing urchins, which in turn has promoted the growth of dense, highly productive kelp forests within the marine park and reduced the extent of unproductive reef "barrens".
- A sidescan survey of Omaha Bay, and associated survey of sediment fauna, has also been carried out. The survey included most sandy areas of Tawharanui Marine Park, but the data is yet to be fully analysed.

On 20 June 2005 an underwater marine survey was carried out by the ARC (in conjunction with the University of Auckland) in terms of the possible 'expanded' area. The purpose was to obtain information on the values of the coastal marine area within

that area, and to be able to address concerns raised during consultation that expanding the area would remove access to a popular fishing reef (Cigar Reef). Cigar Reef is located just outside the existing marine park.

A drop camera with live display was used to examine the reef. The reef was mainly smooth rock submerged by a thin layer of sand, with small (<10m across), emergent patches of very low relief reef (<1 m high). The low relief of the reef may explain the observation of one fisher that the size of the reef changes. Periodic sand burial and retreat may cover and expose sections of the reef. It was also sparsely covered by stubby kelp plants (*Ecklonia radiata*) and a moderately diverse sponge community. Blue cod and goatfish appeared to be relatively abundant around the reef, but no other fish were observed.

Advice given by the marine scientists is that the ecological values of this area are not unique or unusual, and would be similar to that within the marine park had the park not been established. However it could have the potential to allow a greater range of fish species (and crayfish) to establish as has occurred within the marine park, if it were included in a marine reserve.

It has also been proposed for practical and management reasons to 'straight-line' the seaward boundary as well as the western boundary of the proposed marine reserve. Currently, as shown on the map (Attachment 1), the boundaries follow the contours of the shoreline, with the western boundary coming out from the shore in a northeast direction. This situation makes it difficult for boaties to know whether they are inside or outside of the marine park.

It is also proposed to move the western boundary approximately 100 metres further to the west. The existing boundary results in the landward marine park boundary markers (a large orange triangle and a large white triangle on poles) being in the sand dunes. This is difficult, and in some cases impossible, to see from the sea. Moving this boundary 100m to the west will enable one of the markers to be placed on a hill, being clearly visible, as is the existing eastern boundary marker.

X.1.7 PROCESS FOR ESTABLISHING A MARINE RESERVE AND THE POSSIBLE COSTS TO THE ARC

Marine reserves are established by an Order in Council made by the Governor General on the recommendation of the Minister of Conservation and following the statutory process set out in the Marines Reserves Act. A summary of that statutory process is as follows.

Applications for marine reserves must be publicly notified in four national newspapers and in the paper of the local area. A two-month submission must be given. Anybody can lodge a submission on the proposal and the ARC may "answer" them. Any report on objections to the proposal is forwarded to DoC, and the Director General prepares a report for the Minister on the application, objections and the ARC's answers to those objections. The Director General forwards this report to the Minister of Conservation.

In evaluating a marine reserve application the Minister is required to consider whether the proposal:

- Interferes unduly with any estate or interest in land in or adjoining the proposed marine reserve.
- Interferes unduly with any existing rights of navigation.

- Interferes unduly with commercial fishing.
- Interferes unduly with or adversely affects any existing usage of the area for recreational purposes.
- Otherwise contrary to the public interest.

These would all need to be addressed in any application and in any answer to objections. If the Minister upholds any of the objections the marine reserve proposal does not advance.

With respect to costs, DoC does not operate a cost recovery policy for 'processing' marine reserve applications. However, DoC officers have indicated during preliminary, informal discussions that they are likely to request that the ARC pay for surveying the marine reserve boundary (if the Minister approves it) as well as the costs of position buoys to mark the marine reserve boundaries.

With respect to surveying, the marine reserve boundaries would need to be accurately surveyed prior to any Order in Council being issued to establish it. Current advice is that the cost could be in the range of \$10,000 to \$30,000.

The 'internal' ARC costs of preparing the application, notifying it, preparing for and attending any meetings, and answering any submissions, would be in addition to the above figure. Given the amount of recent scientific data/information and the consultation that has occurred, the primary cost for this would be labour.

X.1.8 OPTIONS FOR PROGRESSING AN APPLICATION

Within the parameters of the existing resolution, it is considered that three realistic options exist. These are represented on the attached map (Attachment 1). The cost of each is likely to be similar.

Option 1: The marine reserve over the same area as the existing marine park with no boundary adjustment.

Pros	Cons
The area is already protected and the no take policy has been in place since the early 1980s. Therefore this option will have little or no impact on recreational fishers and is likely to be greeted accordingly.	The existing boundaries are unclear when on the water. This makes it difficult for boaties (and any enforcement authority) to know whether they are inside or outside of the reserve. Surveying a boundary that is not straight lined will be more complex and potentially more expensive.

Option 2: The marine reserve covering the expanded area consulted on in 2003 (including straight lining the western boundary).

Pros	Cons
A greater area of the coastal marine area	Likely to generate further objections from

<p>is preserved for scientific study, as set out in the Marine Reserves Act.</p> <p>The boundaries are 'straight-lined' making it much easier for boaties to determine whether they are within or outside the marine reserve. It will also be easier from a monitoring and enforcement perspective.</p> <p>It allows the western landward marker to be clearly visible from the sea.</p> <p>It will make surveying the boundaries of the marine reserve more straightforward and less expensive.</p>	<p>those who use the 'expanded' area for recreational activities (mainly fishing) and potentially from like minded individuals and groups not directly affected.</p> <p>(Note – objections do not necessarily mean any proposal fails, but is something the Minister will need to consider in terms of the criteria set out above).</p>
--	---

Option 3: The marine reserve covering an area larger than the current marine park but smaller area than the area in option 2 i.e. excluding the recreational fishing area (Cigar Reef) identified during the consultation process but straight lining the boundaries.

Pros	Cons
<p>A greater area of the sea than at present (although significantly less than option 2) is preserved for scientific study, as set out in the Marine Reserves Act.</p> <p>The boundaries are 'straight-lined' making it much easier to determine if boaties are within or outside the marine reserve. It will also be easier from a monitoring and enforcement perspective.</p> <p>It allows the western landward marker to be clearly visible from the sea.</p> <p>It will make surveying the boundaries of the marine reserve more straightforward and less expensive.</p>	<p>This option may generate some objections from those who are absolutely opposed to any expansion of the protected area. However, based on feedback during consultation, this is likely to be a much more welcome solution, amongst recreational users, than option 2 above.</p>

X.1.9 CONCLUSION

The Council has an existing resolution to proceed with an application to create a marine reserve at Tawharanui. On the basis of the research and consultation carried out since that resolution, Option 3 above appears to offer the best solution for all parties. This option would deliver clarity for management and the public by realigning the seaward and western boundaries. It would also slightly increase the protected area while avoiding the need to intrude on the preferred fishing site identified by recreational users during consultation.

X.1.10 TIMEFRAME TO ADVANCE AN APPLICATION

If the Committee endorses an application being progressed, it is considered that an application could be lodged and notified by mid September 2005. This would allow time to: collate any additional scientific information/studies considered necessary to support the application; draft the actual application; undertake any further meetings/consultation that may be necessary with iwi and possibly other key stakeholders; and to meet with DoC for a pre-lodgement discussion on the draft application.

If the application were notified in mid September, the objection period would close in mid-November i.e. two months. Any report "answering" objections lodged, is required, would need to be completed and lodged with the Director General by mid December i.e. no later than three months after the application was initially notified. The Director General would then need to forward the application and other reports to the Minister for his consideration in terms of the criteria set out above.

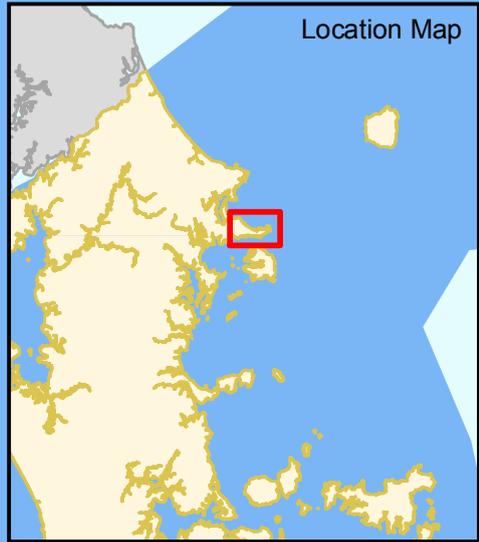
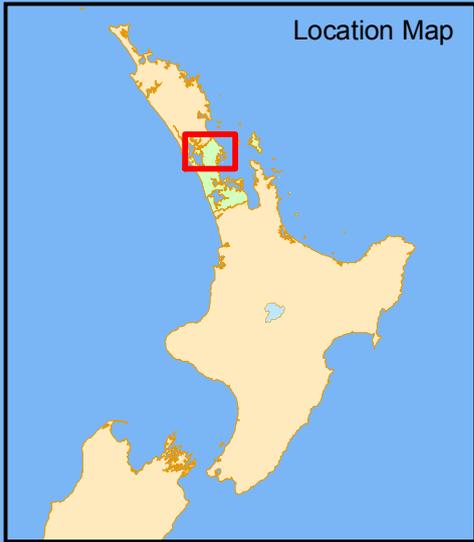
ATTACHMENT

- Attachment 1 - map showing the boundary of the existing marine park and options for an expanded marine reserve.

RECOMMENDATIONS

- a) That the report be received.
- b) That the Committee endorse an application to the Director General of Conservation for marine reserve status for Tawharanui Marine Park as per Option 3 set out in this report.
- c) That the Committee reaffirms the resolution from March 2001 that the existing marine park status be retained until such time as the marine reserve application is approved and implemented.

Appendix 1



Legend	
	Option 1
	Option 2
	Option 3
	Cigar Reef

Tawharanui Marine Reserve Options

Produced by GIS Unit
Auckland Regional Council