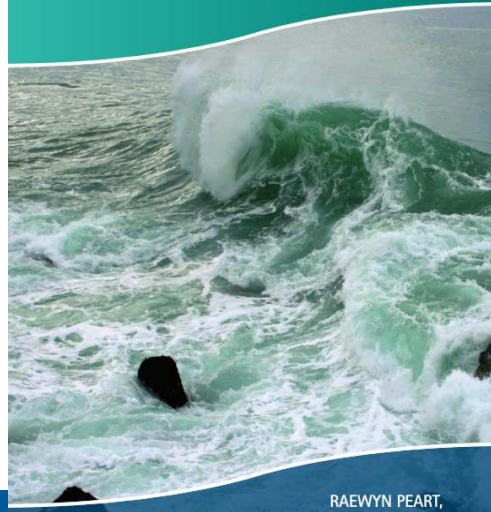


# Oceans Governance Framework: An Appraisal

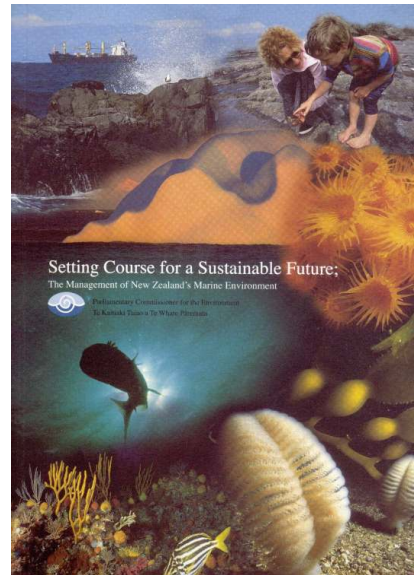
Raewyn Peart  
Senior Policy Analyst  
Environmental Defence Society

## GOVERNING OUR OCEANS ENVIRONMENTAL REFORM FOR THE EXCLUSIVE ECONOMIC ZONE



RAEWYN PEART,  
KELSEY SERJEANT & KATE MULCAHY  
EDS Policy Paper • April 2011

Oceans reform has had a very long gestation – dating back to at least 1999



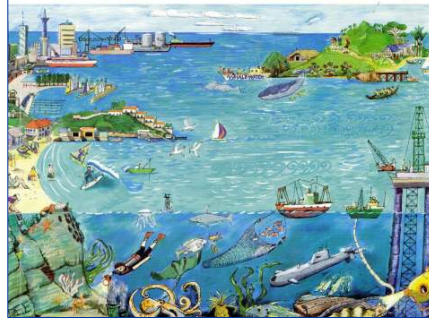
## Ministerial Advisory Committee on Oceans Policy 2001

47 meetings  
24 hui  
2,000 attendees  
1,160 written submissions

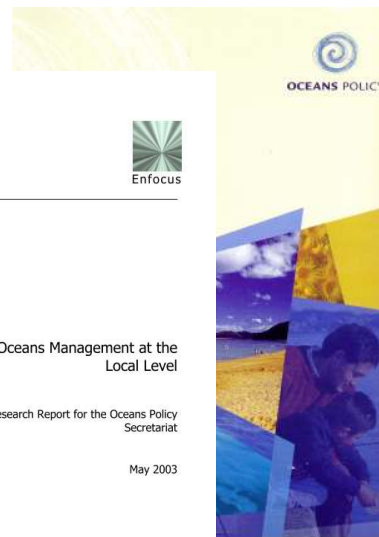
### HEALTHY SEA: HEALTHY SOCIETY

Towards an Oceans Policy for New Zealand

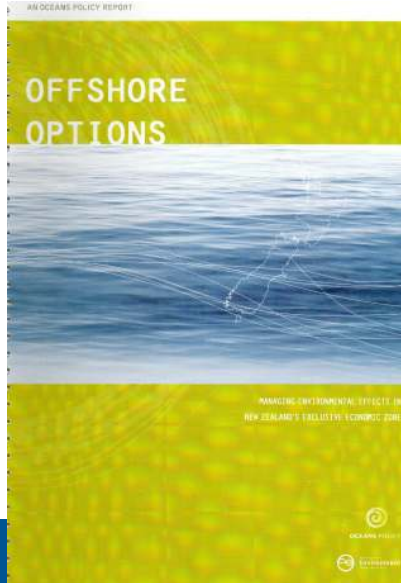
Report on consultation undertaken by  
the Ministerial Advisory Committee on Oceans Policy  
30 September 2001



## Oceans Policy Development 2000-2003



## EEZ focus 2005 - 2008



## 2010- Renewed activity in response to Gulf Oil Spill

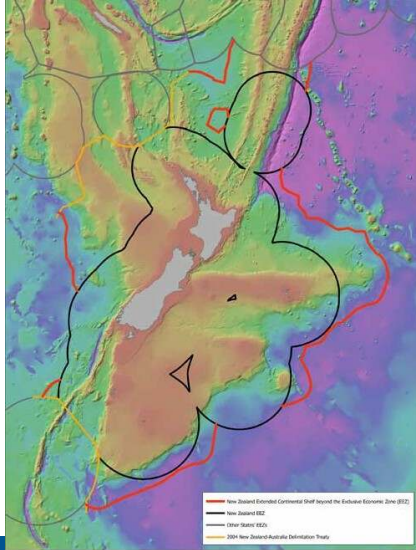


### Comparative Review of Health, Safety and Environmental Legislation for Offshore Petroleum Operations

Ministry of Economic Development  
September 2010  
Final Report

099485

## Oceans is a big management challenge



- Oceans 20 times bigger than land
- Very diverse physical environment
- Subtropical to subantarctic conditions
- Parts very deep – up to 10km
- Highly interconnected system
- Resource rich and biologically diverse
- Small country and limited resources for management

## NZ's marine life is nationally and internationally significant



- Seamounts communities
- Hydrothermal vent communities
- Around half the world's species of dolphins and whales
- Three-quarters of the world's penguin, albatross and petrel species
- NZ seas an international biodiversity hotspot
- Potentially thousands of new species to be discovered

## NZ has international obligations to meet – and not meeting them!

- **‘Protect and preserve** the marine environment’ (UNCLOS – ratified 1996)
- Take all measures necessary to ‘prevent, reduce and control **pollution** of the marine environment...’ (UNCLOS)
- ‘Protect and preserve rare or **fragile ecosystems** as well as the **habitat** of depleted, threatened or endangered species and other forms of marine life’ (UNCLOS)
- Require **environmental impact assessment** of proposed projects likely to have significant adverse effects on biological diversity (Biodiversity Convention – ratified 1993)
- Establish a system of **marine protected areas** (Biodiversity Convention)
- Application of **ecosystem-based approach** by 2010 and **representative network** of MPAs by 2012 (Plan of Implementation)

## Highlights of international review



### Principles underpinning oceans management

Ecosystems-based management  
Integrated management



### Key tools to apply these principles

Marine spatial planning  
Representative network of marine protected areas

|          | NZ                        | Canada                     | USA                                    | Australia                | UK                               |
|----------|---------------------------|----------------------------|--|--------------------------|----------------------------------|
| Act      | Sectoral legislation only | Oceans Act 1997            | NEPA<br>Oceans Act 2000                | EP&B Act 1999            | Marine & Coastal Access Act 2009 |
| MSP      | No                        | Large ocean mgt area plans | Coastal & marine spatial plans         | Marine bioregional plans | Marine (spatial) plans           |
| MPAs     | No specific legislation   | Marine conservation areas  | National Marine Sanctuaries and others | Commonwealth reserves    | Marine conservation zones        |
| Mgt body | No specific body          | Dept Fisheries & Oceans    | NOAA<br>EPA                            | DEWHA                    | MMO                              |

**Conclusions of review:  
NZ is an EEZ laggard**



- No mechanism for integration
- No provision for marine spatial planning within EEZ
- No agency responsible for oceans management
- No EEZ environmental assessment legislation
- No EEZ marine protected areas legislation
- Marine mammal and wildlife (seabird) legislation dated and not working well

## There are considerable risks in keeping the status quo



## NZ monitoring and enforcement weak: petroleum offshore drilling



NZ: **1 inspector for 7** offshore installations **PLUS** all onshore petroleum (31 new wells in 2009) and geothermal extraction activities.

Australia: **1 inspector for 3** offshore installations



UK: **1 inspector for 2** offshore installations

Norway: **1 inspector for 1** offshore installation

*Atkins Holm Joseph Majurey Limited and ERM New Zealand Limited, 2010, 31*

## Would NZ be able to respond to a similar disaster?

- Macondo well released 4.9 million barrels of oil
- At its peak, 45,000 people involved in the response effort
- Some of the best minds in the USA focused on solving the problem including a Nobel prize winner in physics
- Still took almost 3 months to stop the flow of oil
- Economic loss may well exceed US\$100 billion (compulsory insurance in NZ only NZ\$30 million)
- Fishing and tourism industries the hardest hit
- Major economic impact resulting from loss of consumer confidence and perceptions of brand integrity
- Are the risks too great for NZ?

## Options for oceans reform short term – filling the gap



Considered 3 options:

- Expand the spatial application of the RMA
- Develop new EEZ environmental effects legislation
- Expand the scope of the Maritime Transport Act

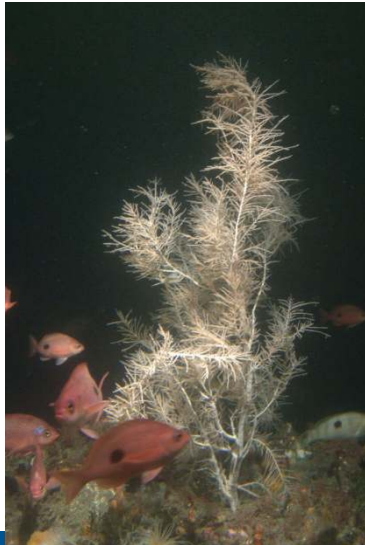
*Concluded expanding RMA most efficient and effective solution; new EEZ legislation also good option*

## Expansion of RMA to EEZ



- Resource consent applications processed in the same way as matters of national significance (streamlined process)
- EPA responsible for monitoring and enforcement of EEZ consents
- Develop a National Policy Statement and National Environmental Standard to guide consenting decisions

## Options for longer-term solutions



- Overlay legislation (paper over the cracks); or
- New integrated oceans legislation (designed for purpose)

## New oceans framework – institutional?

- Separation of environmental regulation from allocation of access to resources
- Regional councils responsible for managing more narrowly defined coastal environment (marine area affected by land) or amalgamation
- One agency given prime responsibility for managing oceans environment (such as the EPA)
- Active role provided for Māori
- One Minister of the Crown given the prime responsibility for oceans
- Effective oceans enforcement capability (could be joint)

## New framework – planning and consenting?



- **Environmental principles** enshrined – management to be ecosystems-based, integrated and precautionary
- Provision for ‘**oceans plans**’
- **On-stop shop** environmental consenting regime for oceans
- Provision for creation of representative network of ‘**ocean conservation zones**’
- Effective and transparent processes and **checks and balances** (e.g. Environment Court to provide independent scrutiny)

## New framework – resources and science?



- Critical mass in one agency - EPA
- Good management needs resourcing
- International secondments and peer review
- Strong link between science and management – independent Oceans Science Advisory Group
- Oceans web-based information system
- Regular state of environment reporting

## Process for oceans reform - options



- **Inter-departmental group of officials** – Oceans Policy 2000-2003; Sustainable Water Programme of Action 2003-2008
- **Independent body** such as Royal Commission – Royal Commission on Auckland Governance
- **Ministerial advisory group** of oceans experts
- **Collaborative process** like the Land and Water Forum

## Conclusions

- NZ is fortunate to have a very large and diverse marine area
- How it is managed is of critical national and international importance
- Current legislative framework inadequate
- NZ far behind international best practice
- Reform is urgent
- Oceans policy is unfinished business which needs to be completed
- New oceans legislation could provide NZ with a sound platform for oceans management well into the 21<sup>st</sup> Century