

**Briefing for Incoming
Minister of Oceans and Fisheries
Hon Rachel Brooking**

Environmental Defence Society

April 2023



Introduction

1. As you know, the Environmental Defence Society (EDS) has been closely involved in marine and fisheries issues for years. We undertook an in-depth investigation into inshore fishing and the Quota Management System in 2018 (*Voices from the Sea: Managing New Zealand's Fisheries*¹) and aquaculture management in 2019 (*Farming the Sea: Marine Aquaculture within Resource Management Reform*²). Over the last several years we have also undertaken policy work on resource management reform, conservation reform and oceans reform.³

Oceans and Fisheries Portfolio

2. Aotearoa New Zealand has jurisdiction over a very large marine domain, which is around 20 times the size of the country's land area. The state of that environment has recently been assessed in a joint report by the Ministry for the Environment and Stats New Zealand (*Our Marine Environment 2019*⁴). It describes a resource with many conflicting uses and priorities and with some serious and concerning environmental degradation and imminent threats of species extinctions. Biodiversity is in decline. Land-based activities are polluting our oceans and shorelines. Pest species are an ever-present threat. Climate change is affecting our seas and what can thrive in them. And there are questions about how we make the best use of scarce and contested marine resources.
3. Our system for managing our marine areas is in need of significant change if we are to create a sustainable future for our oceans. We need to think about managing our estuaries, territorial sea, exclusive economic zone and continental shelf in an integrated way, including the land-based activities and catchments that impact on them.
4. The need to provide a more integrated framework has long been recognised. The current legal framework has developed over more than 50 years into an uneven patchwork of provisions. There are multiple pieces of overlapping marine legislation and some significant gaps in coverage. There is no overarching mechanism to help ensure that all legislation that is impacting on the marine environment is interacting coherently or producing optimal economic and environmental outcomes.
5. Previous efforts at oceans reform in the early 2000s have languished, and it is timely to take a fresh look and build momentum for change. Management of the sea is particularly challenging due to the fluid and interconnected nature of the marine environment, the paucity of information about it and the lack of well-defined property rights. Management approaches which we apply to land will not necessarily work for the sea, which is much more dynamic.

¹ <https://eds.org.nz/resources/documents/reports/voices-from-the-sea-managing-nzs-fisheries/>

² <https://eds.org.nz/resources/documents/reports/farming-the-sea/>

³ <https://edsnz.myshopify.com>

⁴ <https://environment.govt.nz/publications/our-marine-environment-2019/>

6. Due to the urgent need for more political focus in this area, we were delighted when former Prime Minister Ardern created a Minister of Oceans and Fisheries Portfolio in 2020. As noted by the former Minister of Oceans and Fisheries, Hon David Parker, in a 2021 cabinet paper⁵:

“the creation of the Oceans and Fisheries Portfolio – expanded from the former Fisheries portfolio – signals the Government’s commitment to a more holistic, integrated approach to managing the oceans.”

7. Later the cabinet paper goes on to explain that the new portfolio:

“provides an opportunity to make stronger connections across related portfolios (particularly with Conservation and Environment). This will facilitate progress towards ecosystem-based management, ie a more integrated approach to managing the competing values and uses of marine resources while maintaining the ecosystems that support them.”

8. The cabinet paper went on to set out a vision, objectives and principles for the Oceans and Fisheries Portfolio as follows:

Vision

Ensuring the long-term health and resilience of ocean and coastal ecosystems, including the role of fisheries.

Objectives

- *Promote an ecosystem-based approach to research, monitoring and management*
- *Establish a spatial planning framework that optimises the protection and use of marine space and resources*
- *Support the development of a high-value marine economy that provides equitable wellbeing benefits*

Principles

- *Precautionary approach and adaptive management*
- *Equitable allocation of costs and benefits*
- *Give effect to the principles of Te Tiriti o Waitangi/Treaty of Waitangi, including through fisheries and aquaculture settlements and other legislation*
- *Decision-making based on sound science and traditional knowledge*
- *Consistency with international commitments*
- *Transparent, inclusive and effective public participation processes.*

9. Cabinet endorsed an initial work programme for Oceans and Fisheries which included:

- Fisheries system reform;
- Improved fisheries monitoring – on-board cameras;
- Open ocean aquaculture;
- Marine protected areas reform;
- A Government Hauraki Gulf Sea Change Strategy;
- The Rangitāhua/Kermadec Ocean Sanctuary;
- South-East Marine Protection; and

⁵ <https://www.mpi.govt.nz/dmsdocument/45754-Oceans-and-Fisheries-portfolio-ensuring-healthy-ocean-ecosystems-Cabinet-paper>

- A Hector's and Māui Dolphin Threat Management Plan.
10. All of these items are still work in progress and need renewed impetus which we hope you can bring.
 11. We also note that an Oceans Secretariat was established in June 2021, hosted at the Department of Conservation, and comprising officials from DOC, the Ministry for Primary Industries, and the Ministry for the Environment. We have worked constructively with the Secretariat since that time over marine issues.

Oceans Management System Reform

12. Over the past two years EDS has been conducting an in depth, first principles look at the future of our oceans management system (which comprises all of the laws, institutions and tools that manage our marine area, as well as those that manage activities having impacts on it).
13. Phase 1 of the project looked at what is going wrong under current settings and identified a number of options for systemic reform (to our norms, toolkit, legislative arrangements and institutions) that *could* be pursued. It culminated in a series of different starting points for what whole of system reform might look like, from better using what we currently have, to fundamentally reimagining the system's normative basis and structural features (eg through developing a single Oceans Act or pursuing legal personhood for the moana).
14. The Phase 1 synthesis report, *The Breaking Wave: Oceans Reform in Aotearoa New Zealand*,⁶ was launched by Hon Kiritapu Allan in June 2022. We understand that you have a hard copy of the report (and a summary version), but please let us know if not. It has been designed to foster a conversation between stakeholders, policy makers and the public on what reform of the whole system might look like (and not just of individual policy silos such as fishing, aquaculture, marine protection and so forth). Our view is that such a debate needs to happen in an open and inclusive way before coming to conclusions about what a future system *should* look like.
15. Phase 2 of our oceans work, which commenced in late 2022 and is slated for completion in mid-2024, is about developing a single preferred model for reform as well as charting a pathway to transition to the new system over a reasonable timeframe. This is intended to provide a tangible starting point for government to progress whole of system marine reform next term (in a similar way that EDS's work on resource management reform supported the deliberations of the Randerson Panel and has led to subsequent reform of the Resource Management Act 1991). The context is different, but the need for integrated change is just as strong. Your involvement in the resource management reform process gives you a clear background on how to make big changes work.

⁶ Severinsen G, R Peart, B Rollinson, T Turner and P Parson, 2022, *The breaking wave: Oceans reform in Aotearoa New Zealand*, Environmental Defence Society, Auckland, <https://eds.org.nz/resources/documents/reports/the-breaking-wave-oceans-reform-in-aotearoa-new-zealand/>

We look forward to engaging with you on oceans reform matters and briefing you on our findings as the research progresses.

Kermadec Oceans Sanctuary

16. The Kermadec Oceans Sanctuary was announced by former Prime Minister John Key in September 2015. At some 620,000 km² in size, it was to be “one of the world’s largest and most significant fully protected ocean areas”.⁷ The Kermadec Islands are renowned for their high biodiversity, with some 32 per cent of all fish species known in Aotearoa New Zealand coming from the region. It was described by government as “one of the most pristine and unique places on earth”.⁸
17. Since that time the proposal has failed to progress due to issues around its impacts on Treaty Settlement fisheries quota. We also understand that this, in turn, has had a chilling effect on other marine protection initiatives including in the Hauraki Gulf, South-East Coast and promulgation of the marine protected areas (MPAs) legislation. We understand from Minister Prime that Te Ohu Kai Moana is currently considering its position on the matter.

We urge you to give priority to resolving issues around the creation of the Kermadec Oceans Sanctuary.

Marine Protected Areas reform

18. Aotearoa New Zealand is lagging well behind in its protection of the marine area through establishing MPAs. Coverage is small and patchy with mainland bioregions having only 0.3-4.7% of their areas in a MPAs.⁹ Further, there is currently no legal mechanism to create fully protected areas offshore in the exclusive economic zone. This is of considerable concern given the overall ongoing decline of the state of our marine environment.
19. It is widely acknowledged that the Marine Reserves Act 1971 is no longer fit for purpose and urgently needs to be replaced. We have presented some options for reform in this area in *The Breaking Wave*.¹⁰ EDS Policy Director Raewyn Peart also presented proposals for a new Marine Conservation Act at the recent EDS conference in March.

We urge you to make progress with the MPAs reform process within this term of government.

Hauraki Gulf

⁷ New Zealand Government, 2016, ‘Kermadec Ocean Sanctuary Bill introduced’, press release, 9 March

⁸ New Zealand Government, 2015, ‘Establishment of a Kermadec Ocean Sanctuary, Cabinet Economic Growth and Infrastructure Committee, 10 September

⁹ Department of Conservation, Ministry for the Environment and Ministry for Primary Industries, 2019, *New Zealand marine protected areas: Gaps analysis*, Wellington, at 15

¹⁰ See Chapter 9

20. Successive State of the Environment reports have highlighted the ongoing degradation of the Hauraki Gulf. This marine area is of enormous importance to Aotearoa New Zealand, supporting considerable marine biodiversity, many threatened seabird species, the largest recreational fishing community in the country, a valuable commercial inshore fisheries and much more. The need to take action has become increasingly urgent with irreversible tipping points being approached or exceeded in some cases. Of particular concern is the collapse of scallop beds and recent evidence that snapper in the Hauraki Gulf are suffering from chronic starvation.
21. Between 2013 and 2016 a multi-stakeholder and iwi collaborative group developed a plan to reverse the degradation and begin the process of restoring the Hauraki Gulf. The group's work was overseen by a co-governance steering group comprised of mana whenua and central, regional and local government agencies. The *Sea Change Tai Timu Tai Pari Plan* prepared by this group is in the process of implementation by Government. EDS Policy Director Raewyn Peart was a member of the Sea Change Stakeholder Working Group which prepared the Plan, was appointed to the Ministerial Advisory Committee on the Sea Change Plan to provide advice on the Government's response and now sits on the Hauraki Gulf Fisheries Plan Advisory Group.
22. Proposals for a network of marine protected areas within the Hauraki Gulf have been subject to lengthy consideration and a public submission process. We understand that cabinet has approved promulgation of special legislation to create a network of MPAs in the Gulf, and that this is expected to be introduced to the House before the election.

We urge you to progress special legislation to create the network of MPAs in the Hauraki Gulf without delay. Getting the bill into the House should be your top priority.

23. A draft Hauraki Gulf Fisheries Plan has recently undergone a public submission process. Although the draft is a good start, it needs to be strengthened in two key areas. First, it needs to provide for the transitioning of bottom trawling, dredging, and Danish seining entirely out of the Hauraki Gulf Marine Park as envisaged in the Sea Change Plan. Secondly, it needs to directly address the expansion of kina barrens in the Gulf and loss of ecologically important kelp forests.

We urge you to strengthen and adopt the Fisheries Plan without delay.

Fisheries management

24. Although fisheries management has come a long way during the past decade, particularly with electronic reporting and the introduction of cameras on boats, there is still much to be done in order to bring the industry in line with community expectations in the 21st Century.
25. EDS has a positive working relationship with Fisheries NZ and MPI, with regular meetings being held between the agencies and environmental NGOs to discuss issues of concern. We actively submit on proposed sustainability measures and are keen to see an ecosystem based approach to fisheries management rolled out more strongly.

26. ***Issues of particular concern to EDS in fisheries management are the ongoing damage caused by bottom impacting fishing gear, bycatch of protected and threatened species, and the expansion of kina barrens around the north-east coast.***
27. The Ministry of Primary Industries is working on a Fisheries Industry Transformation Plan with the industry with a focus on improving the environmental performance of commercial fisheries as well as increasing value created from fishing. This is a welcome initiative as the environmental impacts from fisheries activities has long been of considerable concern.
28. EDS is keen to see a high value low impact industry which extracts a small amount of very high quality and high value seafood out of the marine area, in a targeted manner, and leaves the rest of the marine ecosystem to thrive.
29. The most urgent issue to address in the sector is the widespread use of environmentally damaging fishing gear that impacts benthic habitats. Dredging, which is particularly damaging and implicit in recent collapses of scallop stocks in Tasman Bay, Golden Bay, the Marlborough Sounds, Northland and the Hauraki Gulf, needs to be immediately phased out. There should be a longer term transition away from bottom trawling starting with its removal from the Hauraki Gulf, a freeze of the current trawl footprint elsewhere, and then reduction over time starting with the most sensitive areas including seamounts.
30. A second major issue is the expansion of kina barrens around the north-east coast consequent on the removal of two key kina predators – large snapper and rock lobster. Spatial protection of sensitive reef systems, and maximum size harvest restrictions, need to be put in place without delay.
31. There also needs to be a move in mindset from environmental mitigation to restoration. The industry has had a heavy footprint on the marine environment over the past century and there is much damage that needs to be repaired. The industry needs to step up to ensure it has an overall positive impact on the oceans including redressing past impacts.

EDS looks forward to working with you on the transformation of the fishing industry.

Resource management reforms

32. The Natural and Built Environment Bill (NBEB) and Strategic Planning Bill (SPB) currently before the House are set to significantly change how our territorial sea will be managed (along with land, freshwater and other resources). The NBEB provides for a new system of environmental limits and targets that will apply to the coastal marine area. It also provides for a set of positive environmental outcomes, rather than focusing on mitigating adverse effects. This provides the opportunity to significantly strengthen management of activities impacting the marine environment.
33. The SPB provides for the development of regional spatial strategies which will include the coastal marine area. They provide an opportunity for a more strategic approach to be applied to the management of this area including in terms of the impact of land-based activities on the marine area, and the location of aquaculture and renewable energy as well as marine protection.

34. EDS has been closely involved in the development of the Bills and you have heard our submissions to the Select Committee

We urge you to consider with a sharp focus the implications of the NBEB and SPB for oceans and fisheries management.

35. As an associated project, EDS is looking at the role of local government and the Environmental Protection Authority in the new system. This has implications for oceans management because of the role these entities currently play in marine management (regional councils for the territorial sea and the EPA for the exclusive economic zone). We will be producing a working paper on this topic in June 2023.

Wildlife Act review

36. The Wildlife Act 1953 is widely recognised as no longer fit for purpose. To inform the review of the legislation by government, EDS is currently undertaking an in-depth examination and review of the Act, as part of our broader Conservation Law Reform project. The review is canvassing options for reform that would enhance biodiversity protection and bring the country into line with international best practice. It is of relevance to your Oceans and Fisheries portfolio as the Wildlife Act currently protects seabirds and some marine species, and has provisions focused on managing fisheries bycatch of protected species. It could potentially have greater coverage in the future.

A report outlining our findings and recommendations will be released shortly and we look forward to engaging with you on those aspects relevant to the oceans.

Summary and timeline of recommendations

Over the next 5 months (April to September 2023)

- a) Introduce special legislation to create a network of MPAs in the Hauraki Gulf, as proposed in the Government's Sea Change Response Strategy.
- b) Strengthen and finalise the Hauraki Gulf Fisheries Plan, including providing for the complete phase out of bottom trawling, dredging and Danish seining from the Hauraki Gulf Marine Park and developing a management plan to address kina barrens.
- c) Give priority to resolving issues around the creation of the Rangitāhua/Kermadec Ocean Sanctuary and a network of marine protected areas on the South-East coast.
- d) Ensure the Fisheries Industry Transformation Plan addresses the most serious environmental impacts of the industry including dredging and bottom trawling.

- e) Progress marine protected area reforms by releasing a public discussion document on proposals.
- f) Continue to implement the Hector's and Māui Dolphin Threat Management Plan.
- g) Establish a regular Ministerial meeting with the 5 key national ENGOs (EDS, Forest & Bird, WWF, Greenpeace Aotearoa and Fish & Game).