

Cook Islands Marine Park

Legal Analysis Workshop

Crown Beach Resort

Wednesday 5th March, 2014

Report compiled from Video Transcript

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Apologies: Tou Ariki (Absent in Penhryn)

Legal Analysis: Part A

Executive Summary

Cook Islands Marine Park policy had insufficient detail to enable a clear recommendation for the enactment of the Marine Park. Full community consultation resulting in a clear policy is needed before legislation can be drafted otherwise the gaps in information are left to the legal drafter to fill and the legislation becomes irrelevant. Therefore a list of decisions by stakeholders approved in Cabinet were presented and six questions were posed to workshop participants to help provide guidance for the analysis. A new Act or significant amendments to existing Acts will be required to establish the Marine Park as current legislation is inadequate. The preferred lead agency is either the National Environment Service or the Office of the Prime Minister. Regardless of the agency that takes on the responsibility of the Marine Park, additional resources would need to be provided to that agency. It was suggested that a shift in power structure is needed to address the poor state of the marine environment. The workshop concluded that decisions on zoning will need to be made by a council comprising key agencies and individuals. Each island will maintain its authority over inshore marine resources and the national law will acknowledge that an island's marine resource efforts are part of the marine park. The marine park must have clear measurable objectives and conservation-based outcomes i.e. assess the status of biodiversity, establish measures to sustain healthy ecosystems, prevent the introduction and spread of invasive species and educate the public about biodiversity. It will allow others to participate in discussion about resource management and will allow wider things to be considered such as whale migratory corridors with respect to longline fishing and large scale management with respect to deep sea mining and other activities at the EEZ scale. Coordination will be an important role as a lot of consultation is needed on marine resources policy that must be based on good science and information. At the same time, information will never be perfect and action needs to be taken with the view of policy being an evolving thing. As a multiple use zoned area, the Marine Park will encompass a protected area network. The workshop agreed that on this basis the Marine Park should be extended to include the northern islands. Available funding and the degree of conflict between users are two factors that will determine how prescriptive the legislation will be about zones. Marine Spatial Planning will be used as a tool to assist with decision-making. While some spatial data may be confidential for national security reasons, the global trend is for spatial data to become more freely available. The Koutu Nui raised their proposal to extend the fishing exclusion zone saying the pa enua are fully supportive and that it isn't based on science but on the fact that people didn't want to see foreign boats fishing near their island and local fishers are noticing there is fewer fish around and want local people to have more of a chance to catch fish to feed their families. Beyond that, tuna is managed by the Western and Central Pacific Fisheries Commission. The Marine Park will encompass land based activities affecting the marine environment. In terms of resourcing, the workshop agreed that funds should come from both government and non government sources once the marine park policy is agreed. A cost-benefit analysis is needed. The workshop was advised against hypothecating government revenue particularly for administration. Allocating revenue for things like research would be fine, but an issue is when such revenue becomes greater than is needed whilst other sections of government such as Health and Education become underfunded. The Coral Reef Survey Report was launched and presented. The strengths and weaknesses of four options for legislating the marine park were presented.

Address by Taholo Kami, Regional Director of IUCN Oceania

- Pacific Islanders are starting to question whether they really do have control over their marine resources.
- Kiribati, Hawaii, Palau and the Cook Islands have declared large marine protected areas.
- It's a statement to the world that the Pacific Islands want to take control.
- People also have a sense of connection in terms of their country and their resources.

Introduction by Professor Justin Rose, Legal Advisor

- This is an ambitious groundbreaking and forward thinking initiative for the government to do
- Input during this workshop is encouraged.
- The report is intended to be most useful for the decision-making process to follow
- If some positions taken in the report are not fully developed then there is more information in the appendices

Law as footwear:

1. Shoes need to be functional
2. Rarely one size fits all – best when made to measure
3. Different ones designed for different purposes
4. Different ones designed for different places
5. There is no perfect shoe for any one person or every occasion
6. Style matters
7. Sometimes you don't need any
8. They don't help if you don't use them (ill-fitting ones stay in the cupboard)

Getting great shoes isn't just about finding a good shoe-maker; it's knowing exactly the type of shoes you want, knowing exactly what you're going to be doing in them, and then communicating that clearly to whoever will be making the shoes.

What Has Everyone Agreed?

The workshop was referred to the list of things everyone has agreed (Appendix A). The workshop was invited to identify things in the list that are not agreed.

The workshop noted:

- The islands want to have the Marine Park extended to include the North

The workshop added to the list:

- Collaboration with overseas partners
- Island government to manage their inshore marine resources under the new Island Government Act (Marine Park Act not to over-ride their authority) provided they have the capacity to manage them.

Questions to be addressed

1. Will new legislation be required to establish CIMP?

2. Will there be an agency, body or organisation that will take the lead role in managing and coordinating the CIMP and if so, what type of agency, body or organisation will it be (ministry, executive agency, statutory agency, management committee)?
3. Will establishing CIMP also mean creating a national Protected Area (PA) or Marine Protected Area (MPA) 'system' or 'network'?
4. Will establishing CIMP also mean creating a national system for integrated cross-sectoral marine spatial planning?
5. Will CIMP end at the high water mark and how will issues of land-based activities threatening ecosystems within CIMP be addressed?
6. Will the CIMP be accompanied by a special funding mechanism of some kind, and if so, how will it be established and governed?

Question 1: Will new legislation be required to establish CIMP?

- Regulations could be made under the Environment Act 2003 and the Marine Resources Act 2005.
- Of these two, the Environment Act is preferred because
 - it's main function is conservation
 - it has a head of power under the regulations for the government to create protected areas.
 - protected areas are not contemplated in the Marine Resources Act 2005 but are considered in the draft Marine Resources Bill.
 - MMR's plan and activities focus primarily on maximizing income from fisheries while ecosystem conservation is a secondary concern therefore MMR is not an ideal choice to be CIMP lead agency.
- However
 - the Environment Act doesn't cover all of the Cook Islands
 - the Environment Act outlines a process of establishing protected areas through an Island Environment Authority which is inappropriate for a large scale, multi-island marine protected area.
 - National Environment Service doesn't have marine enforcement capacity

Question 2: Will there be an agency, body or organisation that will take the lead role in managing and coordinating the CIMP and if so, what type of agency, body or organisation will it be (ministry, executive agency, statutory agency, management committee)?

NES and OPM were favoured as lead agencies. NES has the primary focus of conservation which is clearly the intent of the Marine Park and OPM already plays a coordinating and monitoring role. However the focus of OPM can change with a change in Prime Minister. It was suggested that the Ministry of Marine Resources maintain its focus on marine resources management. If an agency isn't doing its job, it was suggested that a Minister intervene as is done for the Great Barrier Reef Marine Park.

If NES was to be the lead agency, it's current permitting function and any future marine park management and coordination role will be difficult but not a conflict of interest. The permitting authority isn't the body proposing the development, but is considering the development. If NES was

to take on any additional responsibility relating to the marine park, additional resources should be allocated also.

The workshop didn't favour setting up a completely new body because of the additional funds required to do this. It was suggested that government should be in the business of consolidating Ministries and agencies as opposed to setting up new authorities. At the same time, existing agencies may not give the Marine Park priority because of their already full workloads and limited resources.

When considering a completely new body, two options are to have a statutory agency which is completely independent from the executive arm of government or a statutory agency which reports to a Minister. The advantages of a completely independent body are it will be attractive to donors because they want assurance the money will be spent where it should and governments can change the objectives of a statutory agency if that body isn't independent from government. Drawing on a very similar analysis that was done for the Great Barrier Reef Marine Park in 2006 there are good reasons to favour an agency which reports to a Minister rather than to a completely independent board.

Part of the role of the Cook Islands Marine Park is there might be some hard decisions to make in terms of winners and losers and who can and can't do what, where. Those decisions are probably best made by people through the democratic process.

In some places there is a natural or historical resistance to a government agency that has undertaken a regulatory function in the past as opposed to an agency that can say "Look I'm new. I'm all about the marine park and I'm here to regulate it."

The question was raised as to whether the functions of the Cook Islands Natural Heritage Trust could be expanded to cover the Marine Park because it has the specific objective of funding research, data collection and data provision. This would save creating an entirely new organisation. There was some agreement to this but it was noted that the CINHT only has one staff and its mandate would need to be expanded and CINHT had not yet been consulted.

Performance

It was noted in the workshop that it's not always the institutional arrangements but the people involved that affect how an agency might work with others. The small size of the community was suggested as the reason some government authorities are reluctant or can't bring themselves to make the hard decision to fire someone who isn't performing. There is a tendency to change legislation rather than address performance issues.

Another comment made was that it could be difficult for government to decide whether or not they have a performance issue when the particular employment position in question has responsibility for competing interests within the same Ministry e.g. MMR has the objective from government to increase revenue by selling fishing licenses but they've also got a mandate to increase conservation benefit for the marine park. It was suggested that this is a very difficult decision for that single person, the Head of that Ministry. It was suggested that a separate body should be created/identified so that there is not a competing interest.

Another comment was that it was important to look at what the structure does and not necessarily what the individual personalities want.

Considering the Community

The Legal Advisor for Legal Analysis: Part B stressed that legislation needs to be driven from the community up. Proper consultation is needed or we end up with legislation borrowed from overseas or prepared based on the limited knowledge that the legal drafter has.

Inshore marine resources can be managed by respective islands. The national law doesn't have to dictate the inshore marine resources efforts but could just acknowledge that a particular island's marine resource efforts whether under custom under law or a combination of both are part of the marine park.

Enforcement

The Legal Advisor for the Legal Analysis: Part A said despite cases of infringements compliance and enforcement in the Cook Islands EEZ is perhaps the best in the region. Enforcement will always be a problem but is improving incrementally. It is hoped that the creation of the marine park can raise the priority of monitoring, control and surveillance.

Strict enforcement can bring tension in a small community and police officers have often been flown into the pa enua to conduct an investigation.

Marine Park Objective

Early in the workshop there was some confusion as to the objective of the marine park. The Marine Park Framework, while stating principles, long term objectives and strategies, does not provide sufficient detail as to the day to day operations of the marine park. Will the agency be coordinating the research or doing the research? The Ministry of Finance said a lack of detail on the day to day operations made it difficult to form a position on resourcing the marine park. They also said clear objectives can help to avoid conflict further down the line. For example donors may provide support but may contradict each other in terms of what they want to do. This requires the Cook Islands to lead with clear direction.

It was suggested that the marine park be about strengthening existing agencies with respect to marine environmental management and pulling them together. NGOs at the workshop stressed that the Marine Park was about having conservation-based outcomes. This means having funds to assess the status of biological resources, put in place measures to sustain healthy ecosystems and species populations, prevent the introduction and spread of invasive species and educate the public about why biodiversity is so important and how to protect it. It could support conservation projects out of the National Environment Service. They also said it allows others to be part of the discussion about resource management e.g. buffer zones and allows wider things to be taken into consideration such as whale migratory corridors with respect to longline fishing during a particular time. They said the Trust Fund for such activities was the original selling point of the Marine Park because it would resource this improved management.

Another comment was that the marine park could be an impetus for looking into the blue economy and green tourism. Instead of relying on the current projections with fisheries and deep sea minerals there are other possibilities that need to be looked at outside the box. The Ministry of Finance said another study would be needed to determine exactly what those other possibilities would be. It was

also suggested that the marine park encourages participation in policy development for managing large scale and that the Cook Islands is now looking into seabed mining so is needing to think on a large scale and not just on the local island scale.

A discussion was had regarding the impacts of deep sea mining and it was suggested that this was the type of discussion that the Marine Park body could have. The discussion raised the importance of having the correct information about mining and it was noted that despite having information on the location of nodules, the distance from islands needed before impacts are observed is unknown.

It was suggested that the primary focus of the management authority would be to assess the measurable objectives of the marine park that are set by the people of the Cook Islands. While the Edgewater document (Marine Park Framework) is good, those kinds of documents can be high level and it's hard to measure the success of a marine park based on high level objectives. The comment was made that it's not up to the workshop now to say what the day to day activities are. Whether the objectives are financial or scientific the Authority would not just coordinate meetings but collect data. This would take a significant amount of time. Some of the objectives of the marine park could be adding funding to enforcement mechanisms, to the pa enua and to education. They need to be measurable so that it can be understood whether or not the marine park is working to serve the people of the country. It should not be propaganda saying we have this marine park to try to increase revenue.

The workshop heard from a representative of the IUCN global office that it was clear in the Cook Islands that tourism is the heart of the economy and fishing a quite far away second. The IUCN representative said someone told them there aren't enough fish for the tourists and they suggested that perhaps too much is being sold to outsiders and not enough is provided for the local market. They said they went diving and learnt that the diving industry is suffering badly, probably because the reef is largely dead with very few descent sized fish. They said the overall marine resources management structure is telling everyone that they're doing a good job and there isn't a problem, but it's hard to see that. The IUCN representative suggested there is a serious problem. They said a framework is needed which looks at the health of the whole economy and gets the different pieces to work together. This means shifting some current power structures and it would be wrong to think that everyone will be doing the same and there will just be better coordination. The IUCN representative said it must be stated that a few things are broken and need to be fixed and this new framework permits the country to make better decisions. They are still democratic, still built on tradition, still built on science. These things are not the problem. It's more of how everyone goes about it and what drives the different institutions when they do it. Then put the list of potential things to do, listed in the Marine Park Framework, within that.

The Marine Park could also raise revenue to upscale monitoring and surveillance which while very good, is nowhere near perfect. There could be investment in new technology and revenue could be raised through better compliance.

The Cook Islands Fishing Association and National Council of Women representative said that the men and women she represents ask her to ensure their food security is taken care of i.e. two simple things: food and water. She said the workshop has been doing a lot of mechanical discussion and she believes we've grown up, we're going to be 50 next year. We don't have to wear the same muumuu with the same laces on. We can change it. She said the Climate Change division is an example. It was taken a little bit away from NES because NES couldn't do everything. The budget was taken away and it is being done just a little better. She said we should hold our breath a bit before criticising and fighting over where the money should come from and just think where it should be going. She

suggests we should shed the load from NES, MMR and other entities and put it under another “All Blacks team” like the Climate Change one and make it work better.

On another discussion regarding coordination as a role for the Marine Park, one comment made was that coordination could be another term for duplication. It was argued that coordination is a real role because an enormous amount of protected area and conservation is about management planning. If plans are done at site level there are complex social and customary legal issues. A lot of consultation is needed. Meetings will be needed with government departments, local governments, traditional leaders, community based organisations and international bodies. So coordination is a real role.

The workshop was reminded that creating legislation means having good policies. Good policies should be directed by good science and good information. At the same time, information will not always be perfect, action should still be taken and policies should be viewed as evolving, not stagnant and fixed.

MMR said tuna is a resource shared with many other countries and the Cook Islands are part of a much larger “marine park” - the Western and Central Pacific Fisheries Commission. This is the body that has a lot of influence on tuna resources in the Cook Islands EEZ.

Question 3: Will establishing CIMP also mean creating a national Protected Area (PA) or Marine Protected Area (MPA) ‘system’ or ‘network’?

This is about managing protected areas not as isolated sites but as systems because it is more likely to achieve better conservation objectives.

- A more representative selection of ecosystems
- Some efficiencies and cost savings
- The Convention on Biological Diversity requires that MPAs be part of a network and it’s also an agreed policy in the Cook Islands government (NSDP).

This is not new – ra’ui are a network of protected areas. It’s about learning from experiences among different protected areas. Having pockets of protection and forming a network will allow the desire of the northern group to be part of the Marine Park to be taken into consideration. This inclusion of the North is also supported by Koutu Nui. Suwarrow can also be included and the Marine Park may help to strengthen the management of Suwarrow.

A definition for protected areas is needed.

The workshop agreed Cook Islands Marine Park will inevitably be a network because of its size and the zoning aspect. It was also suggested that it is important that the legislation be framed to allow the future inclusion of ra’ui.

The workshop agreed that, based on the zoning and network aspects of the Marine Park, it should be extended above 15° latitude to include the Northern Islands.

Question 4: Will establishing CIMP also mean creating a national system for integrated cross-sectoral marine spatial planning?

The workshop heard that Marine Spatial Planning (MSP) is a commitment that all regional governments including the Cook Islands have supported under what is called the Pacific Oceanscape. The workshop agreed that MSP can be useful for mitigating potential or resolving inherent conflicts and can also help with making detailed science-based management decisions such as identifying migration corridors and areas where fishing lines shouldn't be set during a migratory season for non-target species. MMR said MSP can be used to identify optimum areas for ra'ui and to avoid interaction between local longliners and local fishermen through the establishment of fishing exclusion zones as was done by the establishment of the 12nm and 24nm zones. It can also be used to resolve conflict for issues that go beyond conservation such as border security and shipping e.g. the Barents Sea has a successful example of this. SeaSketch is MSP software programme that is being used for the Marine Park. SeaSketch is a way to enable wider participation in decision-making at the larger ocean scale.

It was noted that MSP is only a tool and there still has to be someone making the ultimate decisions.

Confidentiality of Data

The question was raised as to who contributes towards spatial planning, whether there are constraints to the use of the data and who would manage it and decide what information can be publicly available.

The workshop heard that some data is not shared for the purposes of national security, but the global trend is very clear towards making information publicly available. SeaSketch has been useful for educating the public about the Marine Park but there is still some data that the public would like access to. The Seabed Minerals Authority has a policy to share data that is generated by exploration activities. There is a conservation benefit in not sharing data on the location of extremely rare endemic plants, which may be at risk of extinction through the activities of collectors, if their location is publicly known.

The disaster risk management programme is already implementing a spatial planning aspect that government agencies contribute to. Applying aggregated information helps generate more detail within policies around what levels of information can be accessible to different users

Final Arbiter/Decision-Maker on Zoning

The question was raised as to who will be responsible for the different zoning aspects within the park? Will the legislation say the Marine Park will have zones within it and they will be within a particular area of the ocean surface and will go down to a certain depth? Will the legislation provide an authority to someone to make decisions on whether to expand the zones? Will the authority be able to say "You can only issue fishing licenses over this particular time of the year over this particular period and you can only set out auctioning this part of the seabed for harvesting of minerals?" If there is a conflict where the Ministry of Marine Resources says "We think this is a sustainable strain of fish that we can take out from this zone", who decides? Is it the Cook Islands Marine Park Authority or is it the Ministry of Marine Resources? Ultimately who has the authority to say "I've heard all the arguments, on the basis of all the facts presented to me, the Seabed Mining Authority wins and they can go off and harvest the nodules in that zone." Also, who makes the ultimate decision if the donor's objectives conflict with the government's objectives?

The comment was also made that we can talk about science but one party will point out scientists from one place and another party will point out scientists from another place. Who gets to make the ultimate decision?

One response was that if the authority is Cabinet it could be argued that there will be political interference or influence in the process. The ultimate authority could be the head of whichever agency takes on responsibility of the marine park under new legislation. It could also be the Minister in consultation with the people.

A suggestion for an ultimate decision-making body was a council that includes representatives from the Seabed Minerals Authority, Ministry of Finance, Ministry of Marine Resources, National Environment Service and other relevant agencies. It may be extended to include a traditional leader and/or a representative from civil society. It would be a legitimate option to give that final decision making power to the Council. MMR, SBMA, NES etc would put their data on the table and the decision would be made there. In terms of donor participation it was noted that CINHT has provision that donors giving over a certain percentage get a seat on the Board.

Koutu Nui said the government needs to change its attitude on a lot of things and this would be a way of helping government change its ways. Have a government plus people organised agency where the people can contend what the government thinks it should do as regards to the policy and the government could do the same with the people. It would be a new relationship within our islands.

Another suggestion was that the Marine Park Authority/Agency could have an input into issuing fishing licenses. The issue was raised that currently MMR are saying there is a huge skipjack tuna resource and it can be harvested at a greater level within the Cook Islands. No one disagrees with that but the problem is the juvenile bigeye that is also taken. A ban on FADs to prevent catch of juvenile bigeye has been requested but MMR won't do that. The Marine Park Authority/Agency could suggest conditions to go with the licenses and have the final say on how the fishing licenses should look. The licenses can still be issued but subject to these conservation measures.

The workshop heard that the Great Barrier Reef has a five year zoning plan – there can be 2000 consultations. They talk to stakeholders, come up with drafts and then negotiate them locally. One suggestion was that government be the authority that will determine when consultations start and finish. A decision also needs to be made on how prescriptive zoning should be. It was suggested that this depends on the size of conflict and funding. The comment was made that there is no need to supercede other types of management that are already working well. It's only in the places where conflict is arising where it's important to be more explicit or clear.

MMR suggested that Island Governments maintain their role within the 12nm Territorial Seas and that central government continues its role to manage outside the Territorial Seas to the EEZ because it represents the shared concerns of all Cook Islanders.

The question was raised that if the law was going to determine how zoning and regulatory activities will happen would that not guide the decision on where Marine Park should sit? It was suggested that the choice of lead agency might be influenced by the expanded or strengthened marine spatial planning function.

House of Ariki/Koutu Nui Proposal

The Koutu Nui raised their proposal to place a 50 mile zone around each island for no foreign fishing or mining and then another 50 mile zone (from 50 to 100 miles from each island) for no activity at all. The workshop was informed that the pa enua are in full support of this proposal and that this isn't based on science but on the fact that people didn't want to see foreign boats fishing near their island and local fishers are noticing there is fewer fish around. The Koutu Nui said the boundary lines are only suggested, but the idea is to extend beyond 12nm so that local people have a chance to catch more fish to feed their family.

The question was raised as to whether the pa enua were fully informed before they made this decision. MMR said that it is possible to see lights of a licensed fishing vessel when it's fishing outside the 12nm zone at night. MMR said it is possible that people are seeing legitimate activity because MMR gives authority for a vessel to take shelter near an island while transshipping is taking place. It was suggested that communication between the islands and MMR could be improved so that the islands can contact MMR and inform them when they see a vessel with lights and request MMR to advise whether it is legitimate activity.

A point was made that it would be good to know what ecological or social benefits or benefits for local subsistence fishers, would be gained by the proposed zone. Even those people who have supported the zoning proposal would be interested to know this. It was also suggested that there might be a symbolic and social value which overrides any concerns about science or economics. A decision needs to be made giving priority to either science or the views of the local population.

Question 5: Will CIMP end at the high water mark and how will issues of land-based activities threatening ecosystems within CIMP be addressed?

It was noted that this decision has already been made. Decision 3.4 of what has been agreed says land-based activities would be taken into account (see Appendix A).

The question was raised that while NES is concerned with terrestrial things and MMR is concerned with marine things and the marine park is going to cross this boundary, how will this be reflected in the scope of the law and the objectives?

One issue raised was the sedimentation of Muri lagoon. The suggestion was that the lagoon should be dredged so that pollution from land can flush out at all tide levels. It was acknowledged that pollution is coming from disturbance on the hills through construction of houses and roads and from agricultural activity. It was noted that the GEF Ridge to Reef project will focus on the issue of land-based activities affecting the marine environment.

Question 6: Will the CIMP be accompanied by a special funding mechanism of some kind, and if so, how will it be established and governed?

TIS understands that the Trust is for the marine park to support some government functions but mainly to ring-fence this money so government can't spend it on something else.

Resourcing

The workshop agreed that donors will be looking to government for financial commitment. While management costs money, non-management also costs money and money can be made out of management. The marine park may be considered as an investment. While it's acknowledged that the Cook Islands Marine Park won't have the resources like that of the Great Barrier Reef Marine Park, it was stressed that the Marine Park can't exist as a committee of agencies who meet from time to time because each person on the committee has another full time job. The Marine Park has to be someone's full time job. At the same time government needs to be careful not to be too optimistic that there will be significant external funding. There can tend to be a burst of interest when something is getting off the ground but over time people feel it's the country's responsibility to manage it.

Science and acquiring knowledge tends to be relatively easy to fund from the outside. Core functions of government are harder to fund from the outside because they're government's responsibility.

Funding Mechanisms

IUCN listed three options for structuring funding:

1. Set up an in-country fund
2. Set up an external fund. The advantage is getting tax free money coming from countries like the US. It's much easier if it's a US –based fund.
3. Set up a combination where the governance is in-country but the fund is held somewhere else. This enables local influence over the use of the money but greater assurance to donors that it won't be used for something else.

It was important to Oceans 5 that the marine park is Cook Islands born and bred based on Cook Islands ideas without too much outside influence. Oceans 5 encourages independence from donors in terms of managing finances but notes that this comes with the need for government to bring some backing to the table.

IUCN suggested setting up more than one type of funding mechanism to be able to tap into different types of resources. It was also suggested that setting up funds by island gives local ownership and that a national mechanism allows money to be received through a levy such as a bed tax or some other tax associated with tourism or through other things that generate income over a long period of time such as mining. It was advised not to over-focus on private donations because they have cyclical tendencies. It was also suggested that an options paper for funding mechanisms be drafted to help with decision-making.

One issue raised was that for a small country with limited resources the Cook Islands don't have the capacity to report to multiple donors or development partners in each of their different ways. There is an issue with creating another mechanism that will possibly have another set of reporting requirements. Climate Change Financing is an example of an additional thing government has to report on. MFEM raised the issue of transparency saying Trusts have failed around the world because of a lack of this. MFEM used the lack of online information on the Phoenix Island Trust Fund as an example of poor transparency. MFEM suggested that even with the best laws in the world, if there are limited resources to keep the transparency going then transparency goes away.

While it was agreed that government funding is limited, it was acknowledged that in the past it was a common problem in government for different agencies to provide support for the same things. So it's important to ensure there is no duplication among agencies in terms of what they are funding.

IUCN said there are examples of good conservation Trust Funds in the world such as the Micronesian Conservation Trust. Palau also has a Trust Fund established from its airport tax. Fiji has probably the highest departure tax in the Pacific at 150 or 200 Fijian dollars and \$25 of that goes to the environment. They have 700,000 departures a year and rather than trying to convince the airlines to have this, they simply legislated it into place. Institutions such as ADB and the World Bank are offering Pacific Islands Government green funds but requiring them to commit to a new tax regime to sustain funding into them. IUCN said the reality is that taking on something of this scale that challenges how the marine resources are managed, how environment applies itself, how the people get organised around a large scale marine park requires a lot of work and operations to make it happen.

Cook Islands Whale Research said they are involved with a few different Trusts which all work well and their Board is unpaid.

NES said the Cook Islands used to require \$5 of the departure tax to go towards an Environment Protection Fund. At that time there was a lot of on-the-ground conservation work happening within communities.

MFEM believes that while government should contribute funds, the elected government is who establishes the priorities for funding and it may at some stage feel that it doesn't value putting as much administrative resources into the Marine Park as it may into police or to education because funding is not an infinite resource. When revenue is hypothecated, a lot more money can be raised than what is needed for a particular activity to work (and less becomes available to things that may be underfunded such as health and education). It can also set a precedent for other revenue to be hypothecated such as requiring that the excise on petrol be used to improve roads etc. Then suddenly the tax base shrinks and if governments feel squeezed they will collect revenue in another way. So it's better to give government full flexibility with allocating revenue. Also, once revenue is hypothecated it's very difficult to change that because the people receiving it get addicted to it and view it as their entitlement.

MFEM believes that a Trust Fund for activities such as scientific based research or other sorts of environmental activities is fine but money should not be hypothecated for administration.

MFEM says IATA, to which the Cook Islands is a signatory asks that any departure tax must go back to the airline industry, although they can't dictate Cook Islands law. The tourism industry would not like an extra in-cost on the departure tax because it puts costs up and they would argue to leave the existing tax base and find the efficiencies within government to finance the Marine Park. MFEM has just done tax reform and is adverse to selling another tax because it's now time to bid down and it's hard, difficult work.

The constitution is the number 1 act and the Ministry of Finance Act has a provision saying if there is a conflict with another Act, the MFEM Act is superior.

The Legal Advisor for Legal Analysis: Part B acknowledged that the legislation for the environmental part of the departure tax was repealed because government started to realise it was becoming a lot of money and they wanted to control it.

Koutu Nui suggested that Trust Funds be divided and shared amongst the pa enua because there is a lot of apparent poverty there and too much money stays on Rarotonga. The workshop doubted that donors would be altruistic enough to offer \$10million for the Trust to simply divide and give to the pa enua. Usually money is given for specific purposes.

MMR says they generate a significant amount of revenue but their budget has been flat for 15 odd years and yet MMR is still expected to maintain compliance and to get science to inform management decisions etc. MMR has a network in the entire country that needs to be upgraded to do the scientific monitoring in the other islands.

TIS said that not having an allocated pool of funds for conservation ignores the fact that conservation is so underfunded globally by governments yet it's the basis of our life, our economy and our culture. However the workshop heard from MFEM that government doesn't just de-prioritize the environment. In the whole mix of things such as pensions, vaccinations and improved specialist salaries, the government makes agonising decisions about what is a priority and these are things that environment has to compete against.

In terms of the cost of setting up a new authority, the Seabed Minerals Authority (SBMA) was used as an example of what a new body may cost. According to the SBMA participant at the workshop and the Financial Secretary of MFEM, the SBMA receives a government appropriation of \$250,000. It also receives money from the Commonwealth Secretariat and CITAF for work that government would ordinarily do such as policy etc.

Cost Benefit Analysis

The workshop agreed that a cost-benefit analysis is needed. Questions to answer would include: what will it cost if we don't do this, what might we gain in terms of increased revenues from tourism, what is it going to cost to government to staff, manage and coordinate? What is it going to cost companies, commercial, recreational or other fishers? The cost benefit analysis would ideally include financial costs as well as non financial costs. These questions need to be answered first so a better position can be made to move forward on laws

Launch of the Coral Reef Survey Report

The report on the Coral Reef Survey was launched and a presentation delivered of the survey of five islands. The survey was done by local surveyors and lead by Dr Teina Rongo with the support of the Office of the Prime Minister, Climate Change Division, Te Ipukarea Society, Oceans 5, Waitt Institute, Pacific Islands Conservation Initiative, the National Environment Service, Secretariat of the Pacific Community, the European Union and the Global Climate Change Alliance.

The survey concluded that despite the limited number of fish, the reefs are either healthy or recovering. Aitutaki is a source of both good things (e.g. larvae and diseases for reefs south east of Aitutaki i.e. Manuae and Ngaputoru).

Four options for legislating the marine park: Strengths and Weaknesses

Option 1. CIMP established via amendments to Environment Act 2003

Strengths of this approach include:

- NES is the existing agency a portion of whose work is most clearly focused on biodiversity conservation, conservation planning, developing networks and systems of protected areas;
- The Environment Act 2003 is the law that is most clearly focused on conservation objectives;
- NES is the existing agency most concerned with integrated coastal zone management and reducing land-based threats to marine environments;
- Provides for whole-of-government (and potentially also non-government stakeholder) input into CIMP; and
- Avoids the expense of creating new agency.

Weaknesses of this approach include:

- NES has no capacity for monitoring or compliance of marine environments;
- Unless scope of Environment Act 2003 is expanded, it couldn't cover islands that are yet to submit to the Act's jurisdiction; and
- NES has stated that it would prefer not to be the lead agency for CIMP.

NES said the last statement was based on NES being concerned about taking on a responsibility if it can't be guaranteed resources to carry out that responsibility. The Marine Park shouldn't be given to an agency that doesn't have the financial capacity to carry out the wishes of stakeholders.

Option 2. CIMP established via amendments to Marine Resources Act 2005

The Marine Resources Bill was also reviewed and the following comments were made on this Bill:

1. Objectives justifying why the Minister would create marine reserves and parks should be expressed, including a clear focus on providing a system of marine areas that conserve a representative selection of Cook Islands marine ecosystems; that MPAs be managed having regard to the precautionary principle; that MPA designation and management be guided by participatory processes; and that management of each PA be consistent with the conservation objectives expressed in the law.
2. The question of exemptions should be decided upon a more transparent and rigorous basis than written permission from the Minister (see Bill s20(4)).
3. Management committees should be compulsory rather than discretionary, and their terms of reference and ongoing operations should be guided by principles expressed in the legislation (as above) and a list of specific responsibilities (e.g. draft management plan), not simply 'as determined by the Minister'.
4. Subsections 21 (b) and (c) empower the Minister to dissolve a marine park by order published in the Gazette following consultation with interested persons. No MPA should be able to be dissolved except by decision of the same high-level body that created it
5. There is also a lack of flexibility in the Bill

With regards to amendments to the Marine Resources Act 2005 the strengths and weaknesses are as follows:

Strengths of this approach are:

- MMR has substantial technical expertise and capacity in the area of marine monitoring and surveillance;
- MMR has officers located throughout Cook Islands who could assist in implementing CIMP; and

- MMR could manage and coordinate most tasks related to the CIMP internally, thus (possibly) reducing the need for inter-agency coordination.

Weaknesses of this approach are:

- MMR's plan and activities focus primarily on maximizing income from fisheries while ecosystem conservation is a secondary concern, thus MMR is not an ideal choice to be CIMP lead agency;
- None of the stakeholders consulted regarding the CIMP suggested that MMR would be their preferred choice of lead agency; and
- A CIMP established under the Marine Resources Act 2005 would not be able to adequately take account of land-based threats to marine environments.

Option 3. CIMP established by new legislation and coordinated by OPM

This option draws on the analogy of the existing legislation Disaster Risk Management Act of 2007. Parliament passed this Act, created a new division within the Office of the Prime Minister, created an institutional structure around it, gave it an advisory committee and the division reports directly to the Prime Minister.

Strengths

- Creating a new law and a new administrative body provides complete flexibility in setting the scope of authority and creating whatever institutional structure is best-suited to CIMP;
- Placing the coordinating agency in OPM may keep CIMP higher on the list of national priorities than would otherwise be the case;
- OPM may be more able to successfully address communication failures or interagency conflict than another ministry or agency;

Weaknesses

- There will be a cost of creating and staffing a new unit within OPM;
- The lead agency will be heavily reliant on the performance of other agencies in achieving the objectives of CIMP.

Option 4. CIMP established by new legislation and managed by a new statutory authority

Strengths

- A new law and a new administrative body provides complete flexibility in setting the scope of authority and creating whatever institutional structure is best-suited to CIMP;
- Creating a special-purpose statutory authority as the CIMP lead agency would allow that body to focus solely and specifically on managing and coordinating CIMP;
- A statutory authority with some independence from government may be able to develop partnerships across all sectors more effectively than a ministry.

Weaknesses

- There will be a substantial cost of creating and staffing a new statutory authority;
- The CIMP lead agency will be heavily reliant on the performance of other agencies in achieving the objectives of CIMP, but if it is a statutory authority it may be limited in its ability to respond to issues of suboptimal interagency cooperation;
- Implementing CIMP will require the balancing of competing interests, and sometimes may

involve picking ‘winners’ and ‘losers’; it may not be appropriate for a statutory authority to be making decisions such as these.

The Chair concluded that there is still some work to look at where this best sits. Some of six questions we’ve managed to cross out but there are other things that need to be considered. There is a need to flesh these ideas out more and come up with something with more substance and justification for presentation to Cabinet.

Legal Analysis: Part B

Executive Summary

The legislating of traditional management systems should continue subject to the wishes of each respective island. The same legislation can’t be applied across the board. Legislation should be appropriate for each situation and the work should start by asking communities what problems they are having. The advantages of legislating ra’ui are that the marine areas will be more protected with the force of law, customary practice can be recorded, government departments can resource it by including it in their business plan and budget, it strengthens the role of the aronga mana and it clarifies the rules to the public. The disadvantages are that it may no longer be considered customary, may become rigidified and difficult to change and it may undermine the mana of the aronga mana. Legislating under the Environment Act introduces new responsibilities that traditionally did not exist. Legislating under a principle Act makes the legislation stronger than subsidiary legislation but takes longer to draft and may be delayed by the late convening of Parliament. Legislating as a regulation can happen quickly under existing Acts but regulations can be easily over-ridden by a new Act. Legislating under the Island Government or House of Ariki Acts enables a stronger community role and responsibility but there may be a lack of funding and familiarity with the budgetary process and it’s uncertain if central government departments will recognise and incorporate the ra’ui when developing their own policy initiatives. The ra’ui of 1998 and 2000 resulted in an increase of shellfish and sea cucumber populations, some by 400%. Compliance was monitored by the community. There was a big education and awareness drive in the initial stages of these ra’ui but this waned. It’s important that people know the rules of the ra’ui because in ra’ui where some harvest is allowed it can give the impression the ra’ui isn’t working and can lead to breaches. In 2000 a ra’ui mutukore was declared in Tikioki which is a permanent ra’ui area. Ra’ui requires partnership between government agencies and the aronga mana. Government agencies can give advice on controlling harvest and can also help with resource surveys. The workshop was advised that partnership is about understanding that one group can’t do something alone and it’s about trusting the other party to perform their role. The workshop stressed the importance of communication, cooperation and collaboration. Penalties for breaching ra’ui should be appropriate. One penalty could be naming and shaming. Another could be the confiscation of fishing gear. Ra’ui is both a resource management tool and a cultural practice that should be retained to maintain Cook Islands culture. It was recommended that the method of declaring ra’ui using the blowing of the pu should be recognised in legislation as this will be better remembered than a notice in the Gazette. While legislating something enables it to be better recognised, it can change which group of people is ultimately responsible and they may have a different policy to the previously responsible group. The question must be answered as to whether education and awareness and the inclusion of stakeholders in a process is all that’s needed to resolve a problem, rather than developing new legislation. The legislated role of the aronga mana should be appropriate and they should have the capacity for that role or they should draw on qualified

members of their family to fulfil it. The question was posed as to whether it was possible to legislate part of the process such as the imposition of penalties but keep the rest of the process traditional. The proposal by the aronga mana to expand the size of fishing exclusion zones was proposed by the aronga mana because communities found there are few fish, they don't like to see fishing boats near their island and they hope there would be more fish available for them to catch. Information gathered by Koutu Nui during their consultation with pa enua will be included in the final report.

Introduction by Janet Maki, Legal Advisor

The legal advisor for the legal analysis Part B asked that the aronga mana contribute to the discussion because it deeply involves them. She said it's acknowledged that Koutu Nui are gathering information on traditional management systems in the pa enua. This would be beneficial for this study. It was also noted that if government officials commit to the drafting process, the legislation will be more relevant to them and easier to enforce.

Main Findings

- The legislating of traditional management systems should continue subject to the wishes of the respective island. Autonomy of each island should be recognised. Only they know what will work for them.
- Pro's of legislating?
 - more protected with the force of law
 - a form of recording customary practice
 - may strengthen access to resources of a government department (they'll include in business plans if the legislation falls under their responsibility)
 - may obligate government to provide training, education and awareness
 - strengthens the role of the aronga mana
 - provides certainty for the public as to what's required
- Con's of legislating?
 - there is the argument that if you do legislate then is it really custom or has it changed?
 - there's the argument that to legislate it, it becomes rigidified. It becomes something concrete and difficult to change.
 - there is also the concern that it undermines the mana of the aronga mana
 - it changes the customary concept of ra'ui - is it ra'ui if we have it legislated?
- the traditional force of ra'ui is the mana of the aronga mana. Once you legislate it the force for that comes from the law itself and the law is passed by the Executive Council which means that it's acceded to by the Queens Representative. So the mana comes through that process.

Options for legislating ra'ui

Legislate under the Environment Act or Marine Resources Act

- NES and others should be commended for their efforts to promote and recognise ra'ui
- There are concerns that there is more ownership by the Head of Ministry but it is more likely to be put in the business plan and policies and be included in the budgetary process.

Government agencies have to be careful that they don't overspend so that could be why they want to have some control over the process.

- If it is agreed to preserve and promote customary law we must incorporate into the law as much of the customary principles as can be identified
- Is there a risk of undermining custom when treating ra'ui as another entity? For example a protected area that is identified under the Environment Act has a lot of requirements. So if the ra'ui is regulated under the Environment Act we're introducing these new responsibilities that traditionally did not exist.

Legislate as a principle act

- Advantages: stronger than subsidiary legislation (regulations and bylaws); more protected than subsidiary legislation which can be changed by other principle legislation.
- Disadvantage: takes longer to draft and have to wait for Parliament to convene.

Legislate as regulation

- Advantages: Framework is already there, can do it immediately under the Environment Act, Marine Resources or Island State Government Act.
- Disadvantage: can be over-ridden by a new Act.

Legislate under the House of Ariki or Island Government Act

- Advantages: retains the autonomy of the pa enua and the aronga mana; more community-orientated in terms of their responsibility to enforce; don't have to account to for example the Secretary of Marine Resources.
- Disadvantages: lack of funding and familiarity with the budgetary process (how to compete with other government departments for funds); uncertain if central government departments will recognise and incorporate when developing their own policy initiatives.

Discussion

Lessons Learnt From Recent Ra'ui

The workshop was informed that the ra'ui of 1998 and 2000 resulted in an increase of shellfish and sea cucumber populations, some by 400%. Compliance was monitored by the people of the village. The Legal Advisor of Legal Analysis: Part B noted that few people were aware of this effect of the ra'ui and this should be promoted more. One participant raised the question of why the ra'ui worked and if there is something that is working and traditional, why do we feel the need to legislate it? Another commented that this result without legislation proves that the aronga mana and ra'ui had mana. The workshop acknowledged that there was a big education and awareness drive by the aronga mana, the vaka councils, government agencies and NGOs in the initial stages of these ra'ui but this waned afterwards and meant the success of the ra'ui was doubtful. The question was raised as to who should be responsible for keeping it in the public eye and for promoting it through awareness? A rough calculation of education and awareness activities throughout the year for Rarotonga was that it would come to about \$30,000 including \$10,000 for activities plus \$20,000 for a part time person.

One comment made was that perception is important. Some people don't realise the rules for a particular ra'ui e.g. certain species may be harvested to certain limits or when in season. So when they see people harvesting, they think the ra'ui is being breached and so they break it themselves or say that the ra'ui is not in place.

During a study in early 2000 it was found the ra'ui was very much alive in the pa enua. It was noted that it wasn't just carried out by the aronga mana it's also carried out by the island council, landowners and the community.

In 2000 after lifting the Tikioki ra'ui another ra'ui was put in place called the ra'ui mutukore which was a permanent ra'ui area.

MMR said the ra'ui of 1998 and 2000 were abused because they were an opportunity for people to assert their power over the foreshore area. They said the ra'ui weren't delivering benefits for the wider community. They said they tried to give management advice about what was reasonable during the harvest e.g. size limits and bag limits but this wasn't adhered to. They said only the hotel ra'ui areas survived today because they have a vested interest. A community wanted to harvest and the hotel complained to MMR because they didn't want to see fishing taking place in front of the hotel. They had invested in the ra'ui in front of their grounds. MMR said the Tikioki ra'ui made sense. Permanent zones are needed for educational purposes where children can be taken and for scientific benefit.

The workshop heard that one problem with the Rutaki ra'ui in 1998 was the aronga mana didn't give the Ministry of Marine Resources enough time to survey the reef when they lifted it. The workshop stressed the importance of communication, cooperation and collaboration.

A Takitumu member of Koutu Nui said rather than throwing someone in jail for breaching ra'ui, they would prefer to take photos of them and put them in the media and shame them. One person said that the Koutu Nui originally didn't want to legislate ra'ui but later changed their position because they wanted to make it legal for them to confiscate the fishing gear of those found breaching ra'ui. The workshop heard from Koutu Nui that in Te Au O Tonga, they refuse to declare ra'ui because they don't want their people to suffer.

Another Koutu Nui member explained that a ra'ui was established in Muri three years ago. The Pacific Resort approached the traditional leaders of Ngati Uirangi who agreed. The Muri meeting house was renovated in return. They said there is a much wider scope of the ra'ui now. The Muri one is just a village one. In other cases the owners want to put food on the table.

What is Ra'ui?

MMR and PICI say they view ra'ui as a fisheries management tool. Others saw ra'ui as a cultural practice. One said that it's important to retain these systems and to keep recognising the importance of the aronga mana. One reason is because tourists want to see these practices because they've lost these things in their countries. They said there is a danger of cultural practices falling to the side until all that is left is the dancing. They suggested that the Ministry of Cultural Development be invited to this discussion to help recognise that traditional management systems are also an important part of culture and that culture isn't just about dancing and dancer of the year. It was suggested that the way ra'ui is declared could be recognised in legislation i.e. the blowing of the pu, the blessing in church. They said everybody will remember that better than a notice in the Gazette. It was suggested that people listen, observe and try to better legislate to these practices. Another

said we should educate our people and ourselves to respect our customs and our culture. They said we talk about our pride but we should show it.

Should Ra'ui Be Legislated?

One person said that people tend to recognise something better if it's written in law. Another described the Takutea Sanctuary and said that when it was regulated under the Environment Act, the responsible body to be consulted became the Island Council. They said this presented problems because the Island Council allowed people to fish in Takutea. They said when you have mana the best thing to do is not to give it away.

The Legal Advisor for the Legal Analysis: Part B found that the question of whether to legislate depends on the circumstances. In Rarotonga, once poaching started, people were quick to conclude that legislation was needed but legislation will not guarantee compliance. They said one of the key reasons for poaching or decline in support for ra'ui was because there was a decline in dissemination of information to media on the ra'ui . They concluded that the question arises why are we going straight to the legislation as the answer? Perhaps the answer is that we just need to increase public awareness and recognise the importance of maintaining that long term and not just at the initial stages.

The Legal Advisor said if we legislate a role for the aronga mana e.g drafting a protected area management plan, it will impact whoever becomes the holder of that title. One person said the aronga mana need to recognise and use those within the family that are educated and that are able to perform tasks such as drafting management plans and understand the issues for the benefit of the people.

One comment made was that if the reason for legislating ra'ui was to give the aronga mana the power to confiscate fishing gear, there would be no need for a big legislative framework and process because there is already a traditional process. The question was posed as to whether it was possible to legislate part of the process i.e. the part that enables people to confiscate fishing nets and spearguns from those people breaching the ra'ui.

The legal advisor recommended not to restrict ourselves to the traditional Westminster system. The advisor encouraged stakeholders to think outside the box in terms of legislation e.g. amend the Island State Government Act to allow for other forms of sanctions or penalties

Reasons for Extension of Fishing Exclusion Zones

The legal advisor raised the question as to why the pa enua felt they needed to extend the fishing exclusion zones. Is it because they're not being consulted or included in the process? And is legislation really needed for that? Or does it just require the Ministry of Marine Resources to include them in the process of determining fishing licenses? The legal advisor has the opinion that the provisions in the Marine Resources Act enable the Secretary of Marine Resources to do this because it's part of sustainable use of those resources.

The question was raised as to the capacity of the pa enua to enforce the fishing exclusion zones. The Koutu Nui responded that the pa enua are aware they don't have the capacity for surveillance and enforcement. They only want to extend the exclusion zones because they don't want to look out and see fishing boats. The pa enua also said there is no fish compared to what there was before. They're

hoping that by having the boundary slightly further out there may be a bit more fish for them to catch.

One member of Koutu Nui said they don't want to legislate to change the nature of ra'ui but to support its maintenance and continuance.

MMR disputed the suggestion that there is no fish and that there is illegal fishing. MMR's view is that legislation is needed for the ra'ui because their fisheries officers get yelled at when they tell locals not to fish in the ra'ui. MMR said these people don't care and they ask who the aronga mana is.

Partnership

MMR would like to see a partnership between government and the aronga mana. The aronga mana can put the ra'ui down and the government can enforce it. MMR has spent three years getting a compliance unit trained up, working with New Zealand fisheries. They said that a lot of work has been going on behind the scenes to legitimise the enforcement issue.

The legal advisor agreed with the need for partnership between the aronga mana or the island governments and the government departments. It's about trusting each other to do the work. The legal advisor said it's really important to understand cooperation, communication and commitment and the importance of that partnership. It's about working together and recognising "I can't do this on my own." If the Crown didn't recognise the importance of ra'ui it wouldn't be legislated under the regulations. People need to trust each other in terms of the role that they have to carry out. Another agreed with the importance of cooperation and collaboration, pointing to the issue with the Rutaki aronga mana not giving sufficient time for MMR to survey the reef before they lifted their ra'ui.

Considering the Community

The workshop agreed that there is no "one size that fits all", the same legislation can't be applied right across the board. For example, society in Rarotonga is completely different and the way that people think is completely different from that of people in the pa enua. The comment was made that people in the outer islands still very much respect the traditional ways of doing things. The workshop stressed that Northern communities didn't want marine park legislation to take away their authority over their nearshore resources. It was agreed that legislating ra'ui be kept optional because it is going to depend on each island and each situation. The legal advisor explained that this is why it's so important to go into the communities and consult them before drafting legislation. Start by asking what problems they're experiencing. Is the way to address it through legislation? Do they have the capacity to develop a management plan? If not then ensure training is provided for that.

The legal advisor also warned the workshop to be weary of a society driven and influenced by legislation rather than it coming from the community up. It needs to be relevant to the community it's affecting. For example penalties are usually imprisonment or fines. But there is no prison in the pa enua and people don't earn enough to pay the typical fines.

One observation made during the consultation for regulations under the Environment Act was that the people in the pa enua all wanted to support global environmental initiatives such as protecting turtles and whales but when a turtle appeared they harvested it saying it was the custom to eat

turtles. NES said part of the issue comes down to resources. There is capacity in government to help communities and guide them in the development process but this is dependent on resources.

Practicalities of Enforcement

The question was raised as to whether enforcement is practical for small communities like in the pa enua. Can enforcement officers go up to their uncle and say “Uncle, can you please give me that fish or you have to go to court”?

Relevance

Some in the workshop felt that the traditional system has no more relevance. Society in Rarotonga has become too commercial and it takes legislation to enforce ra’ui. Another questioned the relevance of the aronga mana when they rely too much on others to do the job for them. Some people see the aronga mana as having only a ceremonial role. Some see no relevance because we have government to lead.

Closing Comments

The legal advisor said she will look at the findings of the Koutu Nui’s travels to each of the islands and incorporate it into the report. She said if each island decides what they want for their island it will narrow down options. They may decide that they don’t need the legislation. She said the overarching Cook Island Marine Park Act needs to recognise the importance of ra’ui. Perhaps in such legislation it will allow for regulations or penalties to make it more relevant to the pa enua. She said the expertise in the room shouldn’t be overlooked when looking at capacity for legislating the marine park. She expressed appreciation for those involved in the ra’ui and those who have gone like the late Te Tika Mataiapo and Mama Akaiti Ama. She stressed that it is important for work to continue in terms of awareness and that it was good to hear MMR’s support and willingness to partner. She acknowledged the Financial Secretary’s presence noting his other responsibilities and said that it was good to have his input.

The Koutu Nui announced that they plan to have a national workshop on ra’ui and they have invited the pa enua to attend.

The Chair thanked IUCN, Global Blue and Oceans 5 for enabling stakeholders to come together and discuss the issues. She said there are other issues that need to be worked through to come up with a firm position and confidently present to government the options that should be considered. She said Part A of the report will be amended and the result re-circulated. She said focus groups will be formed to look at the agency and the six questions. She said Koutu Nui will look at the ra’ui amongst themselves at a later date and she thanked the Financial Secretary for taking the time to spend the day at the workshop. She stressed that a lot of collaboration, communication and commitment was needed to drive the Marine Park forward.

Closing Comments from the Donors

Richard Brown of Global Blue said he will provide feedback to their 1,800 employees on what their money is being used for and he will inform them that everyone in the room will see a benefit from what's going to happen. He said that from their CEO downwards Global Blue are all very pleased to be involved in this project. He acknowledged the guidance of IUCN and thanked everyone.

Jess Cramp of Oceans 5 thanked everyone for participating in the process and asked that they please continue to participate. She encouraged participants to ask her any questions about funding mechanisms or potential for funding or about science as this helps the process.

APPENDIX A: Points that Have Been Agreed

3.1 The CIMP will be established and will include the Cook Island's exclusive economic zone to the south of the 15th parallel south (Cabinet, NSDP, NESAF, CIMP Framework).

3.2 The CIMP will be a 'multi-use' marine protected area wherein conservation objectives are achieved while also allowing other uses. This will be done by dividing the area into zones wherein different rules of access and use apply (Cabinet, CIMP Framework).

3.3 The CIMP will be guided by certain principles including sustainability, the precautionary principle, cultural mana, stakeholder participation and equity both among stakeholders and between generations, (Cabinet, CIMP Framework).

3.4 CIMP will be characterized by integrated planning ensuring consistency and complementarity in the management of different areas within CIMP, as well as areas outside CIMP that may impact CIMP (e.g. land-based pollution caused by agricultural practices) (NSDP, CIMP Framework)

3.5 The governance and management of the CIMP will be fair and transparent (Cabinet, CIMP Framework).

3.6 The CIMP will be accompanied and assisted by programs of research and ecosystem and species monitoring (CIMP Framework).

3.7 The CIMP will include programs that help to educate and involve the public (CIMP Framework).

3.8 CIMP requires financing arrangements to provide for its ongoing operation (Cabinet, CIMP Framework).

3.9 There will be community-based management arrangements put in place for significant parts of CIMP including incorporating ra'ui (the mechanism for doing this is not known; this issue is dealt with under Part B) (CIMP Framework).