



OIA 20-E-0150 - DOC-6278853

15 May 2020

[REDACTED]
[REDACTED]
[REDACTED]

By email: [REDACTED]

Dear [REDACTED] and [REDACTED]

Thank you for your Official Information Act request to the Department of Conservation, dated 4 March 2020. You requested the following:

- “2 The information we seek relates to the proposed South-East Marine Protected Areas. Specifically, the information relates to (a) the proposed Marine Reserves and (b) the proposed Type 2 Marine Protected Areas, for which the Government sought feedback on 17 February 2020 (the Proposals). We seek information prepared from February 2018 onwards.*
- 3 The specific categories of information we seek are as follows:*
- 3.1 Copies of all information held by the Department of Conservation and the Ministry for Primary Industries related to the Proposals including:*
- (a) information and analysis of the expected benefits, impacts and costs of the Proposals;*
 - (b) information related to the compliance or otherwise of the Proposals with the relevant legislative requirements;*
 - (c) information or analysis of the impact of the Proposals on the total abundance of target or by-catch species;*
 - (d) consideration of consequent adjustments to the Total Allowable Catches/Total Allowable Commercial Catches related to the Proposals; and*
 - (e) consideration of any alternative implementation options, including but not limited to separate legislation or a new Marine Protected Areas Act.*
- 3.2 Copies of all Cabinet papers and minutes, and any regulatory impact statements/regulatory impact assessments relevant to the Proposals.*
- 3.3 Copies of advice to, and records of meetings with, the Ministers of Conservation and Fisheries related to the Proposals.*
- 3.4 Any other information that could reasonably be considered relevant to the formulation of the Proposals and the decisions taken to date by the Government on the Proposals.”*

On 13 March 2020 you refined your request to the following:

“As a first stage, our clients are content to limit the requested documents (in all categories) to information provided to Ministers and to Cabinet. Given the timeframe our clients have to respond to the Proposals, this request is now urgent, and we ask that the information is provided as soon as possible.

Our clients consider it unlikely that there will be much information falling within the scope of our original request. Therefore, as a second stage, we continue to request the information set out in our letter of 4 March 2020. For this second stage our clients are content to exclude from the request emails to and from people below third tier management, as you have suggested. We trust this sufficiently refines our request.”

On 25 March 2020 we extended your request to 15 May 2020 due to the consultation necessary to make a decision on the response, and the large amount of information sought.

This Official Information Act response provides documentation for the first stage of your refined Official Information Act request. It does not include administrative emails to the Minister of Conservation or her Office as these fall outside the scope of your request.

We understand that Fisheries New Zealand received a similar Official Information Act request from you, and they are responding. We have worked with Fisheries New Zealand to identify joint documentation relevant to your Official Information Act request and avoid duplication of these documents in our respective responses insofar as possible. For efficiency in our responses, Fisheries New Zealand will be providing you with the joint documentation as part of their response.

In addition to your refined Official Information Act request, in an email to DOC staff, dated 20 April 2020 you asked additional questions. Your questions and our responses are listed below:

- *You have indicated that the southeast marine protection consultation process has been postponed. Has the application under section 5 of the Marine Reserves Act been withdrawn by the Director-General of Conservation? If not, please could you advise us of the legal basis on which the postponement has been made?*

The application for marine reserves has not been withdrawn by the Director-General of Conservation, however the Director-General has withdrawn the statutory public consultation process. As you are aware, the public consultation period commenced on 17 February 2020. In so far as the proposals relate to the six proposed marine reserves, the process was commenced by the Director-General in accordance with the statutory requirements for public notification by an applicant under sections 5(1)(b) and (c) of the Marine Reserves Act 1971. The Director-General’s decision to withdraw that public consultation process was made on the basis that the implications of the current Covid-19 pandemic on the public’s ability to participate meant the continuation of the process was no longer reasonable or appropriate.

- *You have also indicated that the public consultation will be resumed at a later date. Are you able to indicate when you expect the consultation process*

will resume (for example, when we reach Alert Level 2), and how long that resumed consultation process will last for (given that the majority of the time for the original public consultation had expired by the time the consultation process was suspended)?

The Department of Conservation and Fisheries New Zealand are carefully considering when public consultation on the proposed marine protected areas can recommence. Public consultation will run for two consecutive months as required by s 5(1)(c) of the Marine Reserves Act 1971. We will be in a better position to advise on this shortly, as further guidance on easing restrictions is developed following Alert Level 2 announcements made on 11 May. The Department of Conservation and Fisheries New Zealand will need to understand what restrictions on personal and business activities will apply to determine when consultation may recommence. Agencies plan to notify commercial fishers, Te Runanga o Ngāi Tahu and Forum members in advance of consultation recommencing.

A schedule of documents released under the Official Information Act in response to stage 1 of your request is provided at Table 1. I have decided to release the relevant parts of the documents, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including deceased people,
- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials,
- frank advice under section 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty,
- advice subject to legal privilege, under section 9(2)(h) - to maintain legal professional privilege,
- confidential information, under section 9(2)(j) – to enable a Minister of the Crown or any department or organisation to carry on negotiations without disadvantage or prejudice,
- 9(2)(k) prevent disclosure or use of official information for improper gain or improper advantage.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

These documents represent a large amount of information, which have been reviewed to ensure there are no breaches of the above sections of the Official Information Act. Once the documents are prepared for release we will forward them to you as soon as possible in two PDF bundles:

- PDF bundle of briefings
- PDF bundle of emails

While we indicated to you in our letter dated 11 March 2020 that refining your request to tier 3 management and above would assist us in responding, I regret that I

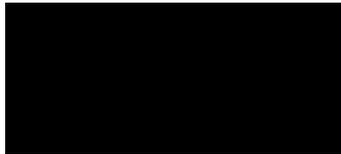
am not able to provide you with the information you seek under stage 2 of your refined Official Information Act request, under section 18(f) due to the substantial collation required to provide the information.

You are entitled to seek an investigation and review of my decision by writing to an Ombudsman as provided by section 28(3) of the Official Information Act.

Please note that this letter (with your personal details removed) and PDF bundles of documents will be published on the Department's website.

If you wish to discuss this with the Department, please contact Lesley Douglas, Project Manager, National Marine Protection Programme on [REDACTED] or by email ldouglas@doc.govt.nz.

Yours sincerely



Natasha Hayward
Director Planning, Permissions and Land

Table 1: The following briefing documents fall within the scope of your request

Item	Date	Document description	Decision
20-B-0252	31 March 2020	Advice- South East Marine Protection Update- Public Consultation (national COVID-19 response)	Released in part
20-B-0200	16 March 2020	DOC response to MOC questions - Rock lobster industry and Southeast Marine Protection (SEMP) work – site D1	Released in part
20-B-0103	6 March 2020	DOC response to MOC questions - Advice-SEMP and DEV (Cabinet Economic Development Committee) discussion	Released in part
20-K-0001	12 February 2020	Cabinet Paper Memo - Proposed package of marine protection measures in the south east of the South Island	Released in part
20-B-0017	7 February 2020	Departmental Memo - Southeast marine protection process meeting with Te Rūnanga o Ngāi Tahu and papatipu rūnaka representatives	Withheld in full
20-B-0005	22 January 2020	DOC response to MOC questions - Further response 20-B-0005 South-East Marine Protection – update regarding delayed consultation process	Released in part
20-B-0008	16 January 2020	20-B-0008 request SEMP launch commissioning (consultation document)	Released in part
19-B-0969	20 December 2019	Departmental Memo - Southeast marine protection process consultation document - for noting only	Released in part
19-B-0887	12 December 2019	DOC/MPI Briefing to Ministers - Update on Marine Protection Areas reform	Released in part
19-B-0825	4 November 2019	Departmental Memo - Marine Ministers meetings on 4/11/ and 6/11-talking points on SEMPF (South-East Marine Protection Forum) and Campbell Island Marine Reserve	Partial release
19-B-0504	22 July 2019	Departmental Memo - South-East Marine Protection - expedited statutory process	Released in part
19-B-0349	15 May 2019	Answers to reporter's questions - South-East Marine Protection Forum-media request from Southland Times	Released in part
19-B-0077	12 February 2019	Advice - Reporting of marine protection in the 6th national Report to the Convention on Biological Diversity	In scope information has been supplied
18-B-1302	6 November 2019	Advice - International reporting of marine protection	In scope information has been supplied

18-B-0255	13 March 2019	Answers to reporter's questions - SEMPf questions from the Southland Times	Released in part
Emails	Various dates	DOC email bundle – emails to Minister of Conservation or the Office of the Minister of Conservation	Released in part