Recommendations for Effective Marine Planning Processes

Lessons Learned from Case Studies in Canada, the USA and Australia

Living Oceans Society

and World Wildlife Fund Canada

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Introduction

Purpose of this Report

Multistakeholder decision making is often used in natural resources management and marine reserve design processes to provide advice on planning and management issues – the challenge is to make it work effectively.

This report has been commissioned by Living Oceans Society and World Wildlife Fund Canada to identify the principles that should be used in collaborative processes for planning Marine Protected Areas (MPAs). Since MPAs are often part of comprehensive marine planning processes, these principles also apply to broader marine planning initiatives.

There are many benefits to a good planning process. MPAs that are created through extensive consultation with local residents and stakeholders enjoy more public support and greater commitment to implementation. Processes designed to accommodate First Nations rights and title will go a long way to avoid costly court battles or lengthy delays.

On the other hand, poor planning that does not involve all stakeholders in the decision-making process can end up becoming cumbersome, expensive and mired in years of controversy and protest.

Public participation can vary widely in scope, issues, purpose and degree of involvement. However, by studying what has worked and what hasn't worked in several jurisdictions, this report provides British Columbia with a set of lessons that can be applied to future marine planning processes to ensure more stakeholder support, make the process more efficient, and increase the likelihood of success.

The key lessons and recommendations were based on case studies from British Columbia (Race Rocks), Nova Scotia (Eastern Scotia Shelf), Florida (Tortugas 2000), California (Channel Islands) and Australia (Great Barrier Reef).

The material is drawn from a 120-page document entitled *An Overview and Assessment of Marine Planning Processes: Case Studies in Canada, USA and Australia*, prepared for Living Oceans Society and World Wildlife Fund Canada by Dovetail Consulting Inc. in February 2004.

Methods

This report was developed through a literature review of five case studies and structured interviews with planners and stakeholders involved in the various marine planning processes.

The case studies were chosen based on the following criteria:

- were designed to address a wide range of marine use issues
- were designed to establish marine protected areas
- include stakeholder participation, including a fractured and complex commercial fishing industry
- address the rights and interests of aboriginal people

Process Structure Framework

This report uses a process structure framework adapted from the principles suggested by several well-known authors of multistakeholder decision making in natural resources management and marine reserve design. This framework can be used to *evaluate*, *design*, and *implement* a collaboration initiative. It consists of:

- A common purpose and definition of the problem and a commitment to collaborate
- Inclusive and effective representation of interested parties
- Effective process management
- Effective process design
- A structured and integrated decision-making framework
- Equal access to information

Please see Appendix C for more details.

Recommendations for BC

The following points summarize what conditions make a marine planning process successful, when a marine planning process is appropriate, and what conditions reduce the likelihood of a successful outcome, based on the common themes revealed in the five case studies.

What Makes a Process Successful

The following recommendations to ensure successful planning processes emerged from the five case studies:

Common Purpose

- *Build trust.* Some stakeholders will be concerned about the legitimacy of other stakeholder involvement in a process. Process managers must allow time at the outset to build the trust and respect between stakeholders.
- *Educate and build awareness about a marine reserve/planning proposal long in advance of a process* to avoid surprises, build knowledge, create interest, and increase the desire for ocean protection.
- *Take small steps.* Begin with a small, but useful, non-controversial reserve.
- *Address fears* of the floodgates opening by coordinating marine reserve proposals for places that make sense. Avoid enhancing the perception that reserves are ad hoc conservationist tools.
- *Ensure all members regard each other as legitimate participants*. This takes time and also involves many points listed in the Representation section below.
- *Demonstrate government support* through clear objectives, policies and financial and human resources. Top-down agency support and outside attention or profile lends significance to a process. If there are broader fisheries management policies and initiatives underway while a specific MPA process is deliberating, government should seek to provide clarity on the linkages between the two processes or policies.
- *Conduct pre-negotiation assessments.* Before commencing a collaborative process, conduct a feasibility study to assess the value of collaboration. For example, assess the utility of a multistakeholder marine planning process, the level of support and understanding among users regarding marine reserves, and the need for a marine reserve from a socio-economic perspective, as well as a biological perspective. Include research on the utility of other means besides marine reserves to address the issues.
- *Ensure clear purpose* through discussion and agreement.
- *Take an ecosystem approach.* Coordination between and within government agencies will promote the legitimacy of the process and engender trust and participant commitment.
- *Ensure law and policy exists* to mandate a marine planning process to develop and implement zoning. Legal mandates enhance fair, efficient, and consistent processes.

Inclusive and Effective Representation

- *Clarify who is to be involved in a process before starting the negotiation process* so that negotiations can begin with everyone working towards a solution together. Finding the right persons to be involved as representatives in a multistakeholder advisory group is one of the most difficult parts of the process and can take up to a year. Poor representation can mean delays in the process once it starts or once it has moved to the regulatory stage. Screen representatives for knowledge about the issues and make sure they won't seek a pre-determined agenda.
- *Make sure participants can be effective representatives* who are trusted and empowered by their constituency. This means spending time to manage complex or disorganized constituencies/sectors into caucuses or work groups.
- *Acknowledge the diversity of perspectives within a constituency* and ensure they are adequately addressed in a marine planning process. One commercial fisherman or sport fisherman cannot speak for the whole industry. Ensuring the right balance of representatives even from within one constituency enhances participant trust and respect in a process.
- *Spend a substantial amount of time at the start* of the process to become acquainted with all interested parties, both locally and beyond the region, and build relationships with them. Invite all interested parties into the process, but seek a balance of interests to avoid perception of power disparities. Engage average people from the various sectors and constituents, not only lobby groups or activists.
- *Consult First Nations communities* as traditional users of marine resources. Invitations and follow up calls are necessary to obtain initial contact. Honorariums to cover transportation costs may be necessary. Identify respected community leaders to be involved in the process. Seek to develop tripartite cooperative management arrangements to address First Nations rights and interests in the marine area being planned. Because there are difficulties inherent with territorial overlap between tribes, First Nations must be allowed to decide how they wish to be represented in a process.
- *Build time for outreach.* Design the process so that local representatives have the time and resources to plan and conduct outreach tasks. Develop a communication strategy that reaches out and informs widely (locally, regionally, provincially, nationally, internationally) and provide many opportunities for public input. Concerted outreach by process sponsors and grassroots activists targeting unorganized or alienated groups can help motivate people to attend public meetings and get involved in processes. Consider the creation of a Liaison Unit to engage with Indigenous coastal communities and identify and address Indigenous interests and concerns.
- *Involve community members and scientists as local expert stakeholders at the table* so that they are part of a team for discussion, negotiation, and information gathering and dissemination.
- *Training or experience in consensus-based negotiations* will enhance the effectiveness of representatives in a process.

Process Management

- *Provide clear leadership,* administration and facilitators. Ensure process managers are committed, neutral, and skilled in process management and communication. Government sponsors should focus on facilitating, coordinating, and supporting processes. Staff should have the skills to teach and

enable fishermen, local interested persons, and other constituent representatives to lead or chair meetings, and design processes as well as give presentations (Lane 2001). Sponsors should also supply the necessary resources for a process.

- *Use tripartite (or cooperative) arrangements* to ensure successful planning and designation of MPAs. Involvement of First Nations must be government-to-government rather than as participants or stakeholders.
- *Employ impartial, expert facilitation to help structure and guide a process.* Ensure that the facilitator is neutral but knowledgeable of the substantive issues.
- *Ensure active communications up and down the decision-making hierarchy.* Keep advisory bodies as well as senior government and political decision-makers up to date with a community-based negotiation process.

Process Design

- *Provide clear terms of reference* for the overall process, even if they are drafts that require consensus amongst participants, to provide direction and help move the process forward. Then let participants refine the terms of reference and seek constituent feedback to ensure the process will fit the community's specific needs.
- *Ensure the scope and purpose of a process is made clear* to all participants in a process before proceeding with substantive discussions. It may take several meetings, but taking the time to clarify mandate, roles, responsibilities, overall process framework and purpose will enhance understanding and trust, as well as prepare participants for what lies ahead.
- *Clarify early stakeholder expectations* about outcomes of the process.
- *Be realistic about the amount of time required* to develop a planning process. It takes time to identify issues and needs before seeking agreement on process or structure. Nevertheless, establish some milestones to guide people's involvement. Ensure that a marine planning process works with the timelines of all stakeholder representatives involved in a process (e.g., check the fishing season so that fishermen can attend meetings). (Lane 2001)
- *Advisory Panels:* Ensure that the expert panels that provide technical advice have clear terms of reference to avoid issues with the legitimacy of advice they provide.
- *Create a clear set of consensus-based decision rules and a fall-back dispute mechanism* in case consensus cannot be reached. Resolve veto power by putting the onus on the person disagreeing to provide an alternative solution that will address their concerns and those of others. Do not place too much emphasis on the need for unanimity in a multistakeholder decision-making process. Something less than 100% will suffice for the process to still be considered consensus-based. The actual extent of agreement should be negotiated with the participants and not decided ahead of time by the process manager.
- *Take an ecosystem approach* to process design as well as to reserve design. An ecosystem approach in reserve design increases the substantive issues that can be addressed in marine reserve collaborations (social, ecological, economic); an ecosystem approach to process design provides the means for involving all the agencies and groups whose jurisdictions crisscross the boundary area. A

reserve therefore serves as a locus to coordinate and address interests and institutional responsibilities at all levels.

- *Avoid getting into mapping work* before the ground rules and the upfront groundwork is completed.

Structured and Integrated Decision-Making Framework

- *Use positive terminology* to explain MPAs to commercial fishermen – "fisheries management tools," for example, not "no-take zones" (Lane 2001).
- *Use various techniques to involve participants.* This will enhance meaningful and comprehensive involvement. Some people are uncomfortable with highly structured processes and may prefer time for open, frank, and less structured discussion (pers. comm. (15), 2001). Mixing small and large group discussions allows people to get to know one another at different levels, raises comfort levels, reduces fears and encourages the generation of ideas.
- *Develop a set of weighted selection criteria based on stakeholders' values* to help create better alternatives and assess how well those alternatives measure against the value-based criteria. Emphasize socio-economic considerations, not just the natural sciences of a reserve proposal. This is a foundation for process success, as well as the basis for the sustainability of the outcome.
- *Provide opportunities for the public to actively engage in workgroup discussions* and contribute their local knowledge. During breakout group sessions, encourage participants to seek the input of constituents and others who attend meetings.
- *Be wary of perceptions of "behind-closed-door" solutions* that may alienate participants.
- *Avoid independent review panels.* Ensure that ecological, social and economic concerns and information are integrated equally into the process. Not setting up "expert science" panels avoids the dichotomies that are created between science and consumptive user groups.
- *Check in with participants* during the process to identify how they perceive the meeting and whether any design parameters need to be changed.

Information Gathering and Dissemination

- *Schedule a number of community meetings* to ensure that all relevant communities and representatives are invited to voice their opinions.
- *Do not underestimate the amount of science that is needed* and the amount of time to acquire that knowledge. Information gathering is a good opportunity to build group relationships.
- *Invest resources and take the time to build user awareness* about impacts to the marine environment. Disseminate information about MPAs, marine reserves, and issues of concern to increase understanding and awareness. Disseminate credible research and monitoring results from the region and abroad.
- *Use third-party researchers who are trusted by locals* and who will follow protocols of confidentiality to obtain reliable socio-economic information.
- *Enlist locals to share their knowledge* of the marine region. Recognize that some commercial fishermen, divers and salvors may not have academic training but they know as much about marine ecosystems as scientists, if not more. .

- *Build fishermen's trust and respect*, as well as support, for the process and proposal - they may help with enforcement later on. Ensure fishermen understand the economic benefits available to them from protecting a particular site. If marine users are not informed about what the benefits (and the costs) are, they will be less supportive.
- *Learn about what matters to fishermen and coastal people.* Do not rush into a process before learning to speak their language. Take the time to identify their values and why they may be for or against marine reserves.
- *Identify whether marine reserves are the best option*. One result of joint fact-finding discovering whether it makes sense to protect an area or not as a marine reserve, or whether other marine planning means are more suitable.
- *Be sensitive to all users' views and educate the public* on both the pros and the cons of marine reserves for all user types so no single group feels it is being specifically targeted and impacted in the process.
- *Provide mapping technology* at standardized scales as a means of assembling large amounts of information and allowing comparisons across a range of values. Provide support staff to assist the participants with GIS technology and mapping work.
- *Assemble all of the written documentation in one resource binder* for each participant. Don't overload the working group. Provide information far in advance of the start of the process and update as necessary.

When a Process Should Proceed

A process should proceed if the following circumstances apply:

Common Purpose

- The agency has first considered whether an agreement-seeking approach is appropriate. For example, the feasibility of a marine planning process and the level of support for such an initiative have been assessed before commencing or announcing such an initiative.
- Key parties are committed to collaborate and are willing and able to participate.
- The issue will not require compromise of basic values and principles. (First Nations will take the time to be involved in a marine planning process if it is developed on the basis of cooperative management of traditional resources).
- The issue is "ripe" for discussion (e.g. a stalemate is unacceptable to several parties).
- Government is likely to implement the agreement reached. Public participation includes the promise that the participants' contribution will influence the decision.

Inclusive and Effective Representation

- Inclusive and effective representation is a key focus of the participation process; it seeks out and facilitates the involvement of those potentially affected.
- The process is coordinated with other government agency processes.
- The process design includes reaching out to the general public to help ensure inclusive representation.
- Stakeholder representatives demonstrate effective representation and maintain communication with their constituencies.
- Stakeholder representatives have negotiation skills to build bridges between sectors.

Process Management

- There is support from relevant decision-making agencies.
- A neutral third party facilitates discussions involving potentially high-conflict topics such as public lands, public waters, and natural resources.

Process Design

- Sufficient time is available to address the key issues.
- Consensus is sought for small steps in the process (e.g., problem statement, goals/objectives, management intentions), not just in the outcome.
- Participants help define how they participate.
- Ground rules are mutually agreed upon by all participants.
- There is a real possibility of success as defined by participants.

- Effective means of communication are used to reach constituents, including coordinating special gatherings, attending other meetings, chatting with people at local bars, connecting one-on-one, and going "down to the docks."

Structured and Integrative Decision-Making Framework

- The process promotes an iterative approach to dealing with complex issues, develops decision criteria, highlights trade-offs, identifies options, and balances social, economic and environmental concerns in the decision-making structure.
- There is a chance to coordinate and integrate activities.
- Interest groups feel that the framework provides a means of addressing growing user conflict.

Information Gathering and Dissemination

- The process promotes knowledge equality amongst all interested parties and participants to a process, adding significantly to the general body of knowledge about marine reserves. This can involve having participants assist with information gathering, inviting expert speakers, sponsoring public sessions and special socio-economic and ecological forums, providing relevant and understandable documents, and producing other resources such as GIS mapping tools.
- The process provides feedback to participants on how their input was used.

When a Process Should Be Avoided

A process should be avoided in the following circumstances:

Lack of Common Purpose

- There is little or no incentive to solve a problem, meet a deadline, or engage adversaries because participants have other means to work out their issues, such as lawsuits or political pressure.
- The resource is too significant, sensitive, or otherwise unsuitable for negotiation.
- The key issues require legislative or legal determinations outside the scope of the group.
- The convening agency or authority lacks commitment to the process and to honouring process outcomes.

Poor and Ineffective Representation

- Participants lack the authority to make decisions on behalf of their constituency.
- Participation requires an organization to compromise fundamental values.
- Diverse representation is not available or key individual representatives cannot participate.

Ineffective Process Management

- Consensus rules are not enforced by the facilitator, creating a veto power.

Ineffective Process Design

- There is too high an emphasis on achieving a consensus agreement, putting too much pressure on representatives, especially if they are not empowered to negotiate agreements.
- Too little time is allowed for the collaborative process.

Poor Information Gathering and Integration

- Participants are unwilling or unable to accept new information and alter beliefs.
- There isn’t fair access to independent expertise on technical issues

Case Studies of Marine Planning Processes

United States: Tortugas 2000, Florida

This case study outlines the National Oceanographic and Atmospheric Administration's (NOAA) community-based process for establishing a network of marine reserves in the Florida Keys National Marine Sanctuary. The process for Tortugas 2000 and the designation of the Tortugas Ecological Reserve involved eleven years of marine planning.

The Florida Keys National Marine Sanctuary was designated by Congress in November 1990 to address drastic declines in coral reef health and fish species and the risk of ships grounding on the shallow reefs (Ogden 1997). The 2,900 nm^2 (9800 km^2) Sanctuary encompasses the marine waters surrounding the Florida Keys archipelago. Today it contains a network of 24 no-take zones, including the Tortugas Ecological Reserve.

In 1991, the Sanctuary began a public process to develop the management plan and formed the multistakeholder Sanctuary Advisory Council to help ensure public input. In 1995, NOAA proposed a draft management plan (DOC 1995) for public review that originally included an ecological reserve, as well as a boundary for a 110-nmi^2 no-take zone in the Tortugas area.

Despite the efforts of scientists and conservation organizations, local fishermen defeated the proposal for the Tortugas reserve (Ogden 1997). There was great misunderstanding and mistrust of the Sanctuary, lack of knowledge about marine reserves, and dissatisfaction with the public process the Sanctuary followed to develop the marine zoning system.

Subsequent drafts of the Management Plan proposed smaller and smaller sites, until finally, due to mounting public controversy, the Sanctuary eventually removed the Tortugas proposal from the plan completely (Ogden 1997).

However, Sanctuary officials did not give up on Tortugas. Local and international evidence was being published on the positive effects marine reserves were having on biodiversity and fisheries. Together with the National Park Service, they launched a collaborative process – *Tortugas 2000* – that brought together a group of stakeholder representatives to recommend more acceptable boundaries for the Tortugas area that would satisfy conservation concerns without ignoring socio-economic needs (DOC 2000).

Phase I (April 1998 to June 1999) involved the design of the reserve, including a series of public meetings to determine the range of issues to be considered. A Work Group of agency officials, representatives from user groups (such as commercial fishermen and the dive industry), environmental organizations, and other concerned citizens was then formed and charged with recommending a set of alternative boundaries for comment.

The Work Group agreed on an ecological reserve in two portions. The 91nm^2 Tortugas North, designed to protect coral reef resources, allows diving but no consumptive uses. The 60nm^2 Tortugas South, designed to protect a coral reef system, commercial fish species, and associated habitat, does not allow diving or consumptive uses.

Successes

There was a high level of participant support for the process, due partly to the perception that government had learned its lessons from the original, flawed marine zoning process and partly to a new, bottom-up approach. By 1998, the public could also see benefits of no-take zones locally and internationally. The Sanctuary Superintendent's long-term commitment, leadership, and local credibility were very important, as was a core staff that was critical in moving the process forward.

The Work Group made sure that missing interests were invited to the table, demonstrating commitment to an inclusive process. The process for selecting stakeholder representatives was considered clear, fair and comprehensive. Spending time on groundwork helped to build relationships and develop trust.

Integrating the scientists and the local traditional knowledge experts into the Work Group also built trust, and the wealth of knowledge that fishermen possessed was a great benefit. Use of GIS mapping to display ecological and socio-economic information was helpful in negotiating the location, size and allowable uses in the Tortugas Ecological Reserve. Disseminating research and monitoring results was critical in shifting pubic opinion. Likewise, constituent outreach was a key feature of ensuring effective representation.

Consensus decision making ensured that all concerns were addressed in the process, moving people away from extremes or positional bargaining (pers. com. (14) 2001) and achieving compromise. Considering a balance of the social and economic issues along with the ecological issues was fundamental to the success of the process. Finally, the process was designed so that common criteria were agreed on before the contentious discussions about maps, reserve locations or percentages occurred.

Challenges

The greatest opposition to the process came from national recreational fishing groups, who opposed the principle of closing any waters to recreational fishing. In addition, lack of clarity with the marine reserve objectives before the start of the process led to some confusion and mistrust, especially from the sport fishermen.

Finding the right Work Group participants was one of the most difficult parts of the process. Some participants couldn't openly represent and commit their constituencies at the table, and failing to secure a sport fishing representation early on was a problem, given the media coverage generated by sport fishing interests.

United States: Channel Islands, California

This case study outlines the National Oceanographic and Atmospheric Administration's (NOAA) community-based process for establishing a network of marine reserves in California's Channel Islands National Marine Sanctuary. The Sanctuary was designated in September 1980, and consists of 1,252 square nautical miles of open ocean and near-shore habitat approximately 25 miles off the coast of Santa Barbara.

In 1998 local citizens, fishermen and the Channel Islands National Park approached the California Fish and Game Commission with a proposal for a network of marine reserves within the Sanctuary. The result was a joint process to discuss MPAs in the Channel Islands area, including the appointment of a 17-member Marine Reserves Work Group (MRWG).

The MRWG included members of the Sanctuary Advisory Council (an advisory group of constituents), government agencies, and representatives of the public, commercial fishing, recreational fishing, sport and commercial diving interests, and non-consumptive interests. A Science Advisory Panel and a Socioeconomic Panel provided technical expertise, and input was gathered from public forums and comments.

While the MRWG did not reach consensus on reserve boundaries, it agreed on a problem statement, issues of concern, goals and objectives and implementation recommendations, producing the foundation for what has become the state-level network of MPAs and marine reserves, and what will soon become the federal waters portion of the network. During the nearly two-year process, the group developed over thirty potential marine reserve network maps which they whittled down to two, but ultimately they could not achieve consensus on the use of limited take, size, and the location of the reserves.

A series of bodies evaluated the MRWG's efforts: the Channel Islands Sanctuary Advisory Council, the Sanctuary Manager and staff, the Department of Fish and Game, and finally, the Fish and Game Commission. The MRWG's package of agreements and information gathered during process formed the basis of the Commission's final recommendation.

In October 2002, the Commission approved NOAA's and the Department's preferred alternative for a network of twelve marine reserves and various types of MPAs, ranging from limited to full protection, covering 142 nmi^2 of the Sanctuary.

Successes:

Reaching out to constituencies was critical to the process and to ongoing relationships. As a result of the MRWG, more fishing communities became interested and involved in the process of marine planning – not only in the MRWG but in the wider state process. The process was designed to directly involve representatives in meeting design, and consensus decision making encouraged a broad alliance of interests.

Gathering and disseminating information – including local knowledge – involved a great deal of time, money, and research, but was invaluable to the Sanctuary, the MRWG members and the general public.

Challenges

Poor choice of terminology and the lack of pre-negotiation assessment made it more difficult to build support and establish a common purpose. For example, terms like "no-take zones" and "over-fishing" often disengaged fishermen and other marine users.

There were several problems with representation. When one conservation representative withdrew, the open seat was not filled, which affected the perception of balance and the legitimacy of the process. Some representatives in the MRWG did not reflect the views of constituents, while others lacked the authority to make decisions for their constituents (Davis 2001). Some, like oil and gas and yachting interests, were missing entirely.

Some MRWG members felt that too much emphasis was placed on unanimity and that something less than 100% would have sufficed. Drawing lines on maps and discussing percentages created some of the greatest conflict in the process. In addition, the group was unsure how to address a reserve network in the Channel Islands with little knowledge about fisheries management outside of reserves.

Finally, there was too much pressure on the MRWG to deliver a recommendation within too short a time to prevent the state government from stepping in and making decisions. More time was needed to build relationships between divergent interests.

Australia: Great Barrier Reef, Queensland

This case study outlines the Great Barrier Reef Marine Park Authority's process for involving Aboriginal and Torres Strait Islander peoples in the planning and management of Queensland's Great Barrier Reef Marine Park and World Heritage Area. Two sets of property rights and responsibilities overlap in this region: Indigenous Australians' native title rights, and national/state governance of the area as a multiple-use MPA (Innes and Ross 2001).

From the Authority's perspective, one of the hardest issues to address has been the culturally appropriate and ecologically sustainable management of traditional hunting (GBRMPA 2003e). It therefore developed an Indigenous Policy and Liaison Unit to help address the legal issues and concerns of local Indigenous peoples (GBRMPA 2003a).

Under the Representative Areas Program, the Authority rezoned the Marine Park based on 70 distinct bioregions with community input. During the initial public consultation, the Liaison Unit informed and sought input from Aboriginal and Torres Strait Islander peoples, reference groups, land councils, community groups and corporations, leading to the development of a draft zoning plan for the Great Barrier Reef.

Next, 18 regional workshops on the reef-wide Traditional Hunting Framework were held with Indigenous communities (GBRMPA 2003f). Then the Draft Zoning Plan was released for public comment, one of the largest examples of public involvement in any environmental issue in Australia's history.

As a result of the consultations, a new provision for Traditional Use of Marine Resource Agreements (TUMRAs) was introduced. TUMRAs are formal agreements with Aboriginal and Torres Strait Islander Traditional Owner groups who assert rights and interests in the Marine Park (GBRMPA 2003a). They

provide a framework for addressing a range of Marine Park issues that Traditional Owner groups will help to manage.

Under the proposed management arrangements in the draft Zoning Plan 2003, traditional fishing and collection will not require written permission from the Authority in zones that allow fishing and collecting. Traditional Owners will continue to have access to all zones in the Marine Park for traditional activities that don't involve taking animals, plants or marine products. In more highly protected zones, traditional uses will be managed under TUMRAs.

The public and community consultations on the new Zoning Plan have resulted in 33 percent protection in highly protective no-take areas (GBRMPA 2003a).

Successes

Indigenous representation is the greatest success of the rezoning process. For the first time, Indigenous communities became more involved, visible, and represented at a reef-wide level. Aboriginal and Torres Strait Islander peoples are taking a proactive approach to addressing traditional use of marine resources, leading to the development of cooperative management arrangements (TUMRAs) in the Marine Park.

The Authority has played a key role in ensuring Indigenous involvement in Park management. Because of the wide and often remote distribution of the region's Indigenous population, an effective cross-cultural communication strategy has been critical.

Challenges

The main challenge arises when Traditional Owners oppose certain activities in a particular area of the sea country. The Liaison Unit can now respond with planning tools such as TUMRAs to support Traditional Owners' involvement in issue identification, cultural mapping, and cooperative management of their traditional area.

Canada: Race Rocks, British Columbia

This case study outlines First Nations involvement in Fisheries and Oceans Canada's X̌ʷaɣəŋ / Race Rocks Marine Protected Area planning process, particularly in the Race Rocks Advisory Board. X̌ʷaɣəŋ (pronounced *shwai'yen*) is the name given to the area by the Coast Salish Nations and means "swift waters."

Under the *Oceans Act 1997*, Fisheries and Oceans Canada (DFO) is responsible for coordinating marine protected area initiatives between agencies and between federal and provincial jurisdictions. It is also mandated to designate its own national system of MPAs[1] through collaboration and cooperation with other governments, agencies, affected First Nations organizations, and coastal communities. These should ideally be situated within integrated management plans based on an ecosystem approach. Special consideration is given to traditional activities in marine areas, and all decisions should be consistent with First Nations land claims agreements (DFO 1998).

[1] In this case study, the term "MPAs" refers to DFO's system of marine zoning designation under the *Oceans Act*. In the rest of the report, the term "MPAs" refers to the meaning defined in the glossary.

In 1980, the province designated Race Rocks as an ecological reserve, providing protection for the natural and cultural heritage values of nine islets and the ocean bottom. Eight years later, X̌ʷaɣəŋ /Race Rocks Ecological Reserve was declared an Area of Interest under the *Oceans Act* and the Federal–Provincial MPA Strategy and was selected as an MPA pilot. The next step was for DFO to assess whether it met the designation criteria and then identify and assess its ecological, technical and socio-economic merits.

To help in the process, a multistakeholder Race Rocks Advisory Board was established in 1999 that included government, First Nations and local stakeholder representatives. The Advisory Board reached consensus on recommendations to support an MPA designation, including provisions for the creation of a no-take zone and the establishment of a co-management regime involving First Nations, British Columbia and Canada (DFO 2000a).

The Minister of Fisheries and Oceans subsequently announced X̌ʷaɣəŋ as Canada's first MPA under the *Oceans Act* in September 2000. However, to date, the MPA was has not been formally designated due to complications in the regulatory process in Ottawa.

Successes

Thanks to creative problem solving, the Race Rocks Advisory Board was able to negotiate a no-take zone within the boundaries of the existing ecological reserve, gain First Nations' support for the creation of a Marine Protected Area, adopt a First Nations name for the area, and recommend co-management by local First Nations, B.C. Parks and DFO.

Challenges

Despite the Advisory Board's success in developing recommendations, once these recommendations were submitted, they were misrepresented in the proposal and in the federal government's regulatory approval process. Both the misrepresentation and the subsequent protest involved groups that were not part of the Advisory Board (LeRoy 2002).

DFO's proposal document excluded the possibility of First Nations being part of a tripartite cooperative management arrangement, which was agreed to by the Advisory Board.

The local First Nations Chiefs T'souke, Songhees and Beecher Bay opposed the proposed MPA, citing *Delgamuk*, infringement of rights, and lack of consultation, halting the final designation (LeRoy 2002). DFO learned that First Nations representatives on the Advisory Board did not have the support from local First Nations to negotiate on their behalf.

DFO has since consulted with the Chiefs and acknowledged that it did not engage with the First Nations effectively. The Chiefs responded with a letter of support for the MPA on the condition of true co-operation and acknowledgement of Douglas Treaty Rights.

Canada: Eastern Scotia Shelf, Nova Scotia

This case study outlines Fisheries and Oceans Canada's Eastern Scotian Shelf Integrated Management (ESSIM) process and the Gully Marine Protected Area process. As noted in the previous case study, Fisheries and Oceans Canada (DFO) is responsible for developing a national system of MPAs based on an integrated management approach.

The Eastern Scotian Shelf Integrated Management (ESSIM) Initiative is an ongoing collaborative offshore planning and management process for the Eastern Scotian Shelf Large Ocean Management Area being led by DFO. It was announced in December 1998 following the Sable Gully Conservation Strategy's recommendation to apply integrated management approaches to the offshore area surrounding the Sable Gully Area of Interest.

Key interests on the Shelf – an area of high biological diversity and productivity – include fisheries, offshore oil and gas, shipping, maritime defence operations, submarine cables, science, research and development, recreation and tourism, potential offshore minerals development, and marine conservation (DFO Maritimes Region 2001).

To date, an array of sectoral meetings have been held, background reports written, and two workshops conducted. An "ESSIM Forum" has been proposed along with a supporting administrative ESSIM Secretariat, and a Federal-Provincial ESSIM Work Group has been formed, along with other multistakeholder work groups.

Gully MPA

The Gully is a deep canyon ecosystem on the edge of the Scotian Shelf, near Sable Island, that has been the focus of conservation efforts since the early 1990s (Canada Gazette 2003).

A Work Group and an Advisory Committee have been formed to develop the MPA and management plan. Based on the Work Group deliberations, DFO developed a document in 2002 outlining the proposed MPA and management zone boundaries, and described the scope and intent of the regulations being developed. It was distributed to offshore industries, academia, government agencies, First Nations, environmental interest groups and other non-government organizations. DFO also gave presentations and held separate meetings with key interests during 2002–2003.

Although the Gully MPA is distinct from the broader ESSIM Initiative in terms of scale and scope, the two planning processes are nested together and involve many of the same interests and management issues. The ESSIM process will continue to support Gully MPA planning, as well as the identification and development of an MPA system plan for the Scotian Shelf (Canada Gazette 2003).

Successes

To date, the intent, objectives and processes proposed for the ESSIM Initiative have been received favourably by participants (DFO Maritimes Region 2001). Through ESSIM processes, DFO has demonstrated its willingness to collaborate, and although the process is taking longer than expected, there is a general belief that an integrated management plan will improve the situation on the Shelf.

Because DFO is a process sponsor instead of a process facilitator – meetings are co-chaired and workshops led by a neutral facilitator – it can focus on the discussion issues.

By integrating the Gully MPA process in the ESSIM Initiative, multiple uses and impacts beyond the MPA can be managed to meet the Gully's ecosystem protection requirements. The iterative cycles and feedback loops among the five stages allow the integrated management plan to be adapted to address the dynamic nature of the ecosystem and/or human uses of the ecosystem.[2]

Challenges

Some participants do not acknowledge the legitimacy of other stakeholders, and fishing interests are not always willing to discuss management in a multisectoral context. It will take more time to build trust and respect. As well, DFO suffers from some lack of public trust because it is seen as "the violator" of fisheries management on the East Coast.

Participants want DFO to take a greater leadership role and begin implementing some of the planning to date. There continues to be the perception that DFO is not well coordinated internally, and DFO staff does not have adequate resources to perform its Secretariat functions appropriately.

There are many different perspectives and interests involved within a constituency, making it difficult and undesirable for people to identify themselves as spokespersons for their constituency. It is also difficult to identify and engage all interests. In addition, some constituents can't afford to attend meetings regularly.

[2] Source: http://www.mar.dfo-mpo.gc.ca/oceans/e/essim/essim-reports-planningprocess-e.html.

Appendix A: Glossary

Collaboration: Collaborative processes include a mix of individuals representing often conflicting interests and views who come together either because of a shared vision (proactively) or because of conflict (reactively) to meet the goals of all the group members. Also called **multistakeholder decision making** and **natural resource decision making**.

Indigenous: In Australia the term Indigenous is used to refer to both Aboriginal and Torres Strait Islander peoples. This document will often use the term Indigenous to refer to both First Nations in Canada and Aboriginal and Torres Strait Islanders in Australia.

Integrated oceans and coastal management (IM): A comprehensive and coordinated approach to decision making, based on a balanced consideration of the full range of interests and associated ecosystem, social and economic objectives for a management area.

Marine Protected Areas: According to the World Conservation Union (IUCN), any area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical or cultural features, which has been reserved by law, or other effective means, to protect part of the entire enclosed environment.

Marine reserves: Areas in the ocean where no take of living or non-living marine resources is allowed. Also called **no-take areas** or **no-take zones**.

Stakeholders: Anyone who is able to affect or be affected by an outcome of any negotiation, who is responsible for implementing its decision(s), and who has an interest in the issues. Also called **interested parties**.

Appendix B: Literature Cited

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Appendix C: Process Structure Framework

The following table describes the process structure framework used in this report, adapted from the principles suggested by several well-known authors of multistakeholder decision making in natural resources management and marine reserve design.[3] This framework can be used to *evaluate*, *design*, and *implement* a collaboration initiative.

1. Common Purpose and Definition of Problem & Commitment to Collaborate	***a) Participants:*** Participants acknowledge the need for a consensus-building process and are committed to it, acknowledge the legitimacy of other stakeholders, and agree on a common definition of the issues at stake. ***b) Government:*** Government demonstrates leadership, commitment and integrity by establishing clear objectives, providing timely and clear policies, allocating financial and human resources, and acting on consensus recommendations; ensures coordination with existing policies and decision-making processes; and supports participation by its agencies and their representatives. Government assesses the appropriateness of negotiation prior to the start of process.
2. Inclusive and Effective Representation of Interested Parties	***a) Inclusive representation:*** Everyone who is able to affect or be affected by the outcome of any negotiation, who is responsible for implementing decisions, and who has significant interest in the issues should be involved in the negotiations. The wider public is kept informed through outreach methods. The process involves local, government and First Nations interests as needed. Inclusion is a process of continual adaptation with differing levels/roles for representatives. Complex constituencies are managed into caucuses. The set and number of stakeholders reflect the complexity of the problem. ***b) Effective representation:*** All participants are committed – they attend regularly, participate in good faith, are knowledgeable, communicate openly and share ideas. Representatives are trusted by their constituents and empowered to represent them and make decisions on their behalf; they maintain communication with and inform their constituencies. Government representatives can speak for their organization, are available for consultation, are skilled in communication and public processes, listen to participants, are technically knowledgeable, understand planning, work well with people, and share power with public representatives.
3. Effective Process Management	Process managers include convenors, co-ordinators, administrators, and facilitators. In addition to having the attributes described under *Effective Representation*, process managers are committed, neutral, skilled in process management and communication, knowledgeable about issues; and available for consultation with participants. Stakeholders must believe process managers have legitimate authority. Leadership and constructive management throughout the process are critical to success. High interdependence in a group requires powerful convenors. High-conflict situations suggest the need for professional facilitators.

[3] The main authors are: Dukes and Firehock 2001; Duffy, Hallgren, Parker, Penrose, and Roseland 1998; Gray 1989; Cormick, Dale, Edmond, Sigurdson and Stuart 1996; Roberts and Hawkins 2000.

4. Effective Process Design Effective process design requires clear terms of reference to guide the process, participant involvement in the process design, and a comprehensive set of procedural ground rules.	***a) Clear terms of reference:*** The mandate, roles, responsibilities, and authority are clear to all participants. Clear terms of reference also involve a clear purpose of process; clarity of stakeholder expectations about outcomes; clear organization, roles and authority of subgroups; clear ground rules; and realistic timeframes. The process is flexible and adapts to changing circumstances; a fall-back dispute mechanism exists if consensus is not reached. The geographic scale is appropriate. Meeting logistics are clear, and a media policy is agreed upon. ***b) Participatory design:*** Participants are involved in tailoring their mandate, process, issues, and agenda. The agenda is designed to accommodate all interests and includes ground rules for operating together. Mechanisms are in place to allow participants to provide feedback and to facilitate change to the process design. There are trade-offs between the number of stakeholders and the ease of managing a process. ***c) Ground rules:*** The rules of procedure must be clear to establish boundaries for participant behaviour as well as the procedure and substance of the discussions (e.g., organization, conduct and logistics of meetings). Ground rules cover participant interactions, issues up for discussion, parties at the table, information sharing, facilitation, dispute settlement process, decision rules, and consensus rules. Without agreement on these matters there can be no process. The process design is effective only if stakeholders adhere to procedural agreements.
5. Structured and Integrative Decision-Making Framework Providing structure to the decision process creates opportunities for meaningful involvement of all participants in deciding the substantive issues through the achievement of each of the following sub-sections, in development, evaluation and selection of decision alternatives.	***a) Structured decision-making framework:*** The decision-making framework is rigorous, uses an iterative approach to deal with complex issues, and highlights trade-offs. It manages the complexity of substantive issues through explicit decision criteria used to explore options, clarify decisions, and monitor and evaluate decisions. Inventing options of differing strength increases the number of potential solutions. ***b) Creative approaches to problem solving:*** Creative approaches to promote teamwork and effective problem solving are utilized; e.g., small group sessions, plenary or roundtable discussions, forums, speakers, and mapping tools. Sub-groups/sub-committees or a neutral third party can help present and scrutinize multiple options. Time is built into the process to understand differences. Trust is built by working to achieve the principles in this framework, by ensuring interest-based negotiations, by holding specific workshops to address barriers between groups and develop skills, and by exploring options and making trade-offs together. ***c) Comprehensive and integrative framework:*** The process promotes decisions that consider balancing social, economic and environmental impacts, issues, and concerns.
6. Equal Access to Information	***a) Equal access to information:*** "Knowledge equality" improves the balance of power and ensures all participants, including government agency staff, can participate meaningfully. This means providing resources to assemble information and providing access to, and dissemination of, information and expert knowledge. Expertise includes local and traditional knowledge. Information is the best available, credible, understandable, timely, not rushed or late. Experts are made available to explain and interpret information and assumptions. ***b) Joint information search:*** Joint fact finding allows all participants to mutually gather, examine and share information relevant to decisions. Together, participants assign tasks or teams or invite panels of experts to synthesize complex and controversial data (social, economic, scientific, layperson/traditional/local knowledge) to help stakeholders understand. Third parties can be contracted to research information that is missing or difficult to obtain.