

# **Race Rocks Public Advisory Board 2010**

## **Recommendations for DFO April 24, 2010 - DFO Responses November, 2010**

### **Background**

The Department of Fisheries and Oceans has reactivated a 1999 proposal to establish Race Rocks as a Marine Protected Area (MPA) under the Oceans Act. As a consequence, a new round of community consultations was launched in September of 2009. The RRPAB is composed of community representatives and Race Rocks stakeholders including Pearson College who presently funds and provides the Ecoguardian at Great Race, private businesses, recreational users, the education sector, research interests, the Ecological Reserve Volunteer Warden and several conservation/environmental protection groups. Various government departments and agencies at the federal and provincial levels are also included.

Community based members of the RRPAB donate their time to the process. Most are volunteers or are obliged to take time off from their regular work to participate. They receive no compensation or expense recovery.

A similar Board was established to advise DFO in the failed 1999-2002 designation process. Many members of the previous Board also sit on the current Board and have gained extensive knowledge of Race Rocks and the MPA designation process over a period of many years. The racerocks.com website is a comprehensive and authoritative repository of information regarding all aspects of Race Rocks and the entire MPA process.

BC Parks, through existing Ecological Reserve (ER) protection at Race Rocks, has been involved for over 30 years. A comprehensive management plan for the ER is in place. While the ER includes the islets and sea floor it does not include the federally controlled water column. It is assumed that DFO and the province are engaged in government to government discussions to link the existing ER and proposed MPA management protocols.

First Nations consultation is being conducted in an entirely separate process by DFO. A First Nations consultant sits on the RRAPB as a liaison. Invitations have been extended by the members of the Board for First Nations to participate directly in the RRAPB process but the consultant reports that these invitations have been declined at this time.

Meetings of the RRPAB have taken place on September 25, 2009, November 26, 2009 and March 24, 2010. The primary focus of these meetings has been on updating a values/use table from the perspective of each RRPAB member and outlining the details of the MPA process. While some comments and advice from RRPAB members have been injected into the discussions there has not yet been an opportunity for the RRPAB to provide comprehensive advice and recommendations to DFO.

On April 19, 2010 an informal meeting of the RRPAB was convened by board members to draft a set of recommendations for DFO staff to consider. The purpose was to gather information to advance the MPA process in a constructive and efficient manner. All members of the RRPAB, including DFO staff, were invited to attend. These notes are intended to outline the written submissions and discussions arising from this effort. These recommendations are in draft form only and subject to revision and further discussion.

## Procedural Requests

There are three procedure related requests that are relevant to the ongoing process of the RRPAB. These recommendations are provided on the understanding that these requests will be accepted by DFO. For some reason none of these issues were complications in the previous round of consultations in 1999-2002 which occurred under the same legislation.

We have been told by DFO staff that the management plan cannot be developed until after designation. Some of the recommendations are large picture management issues. It is the view of the majority of the RRPAB, and especially the current users of the area, that these issues must be discussed in advance of designation. It would be unreasonable for those currently engaged in activities at Race Rocks to agree to designation without some understanding of the impact of MPA regulations on long established businesses, recreation, research and education activities. The RRPAB will require a response to each recommendation from DFO with comment and a summary of regulatory intent in advance of designation. The Draft ER/MPA Management Plan adopted by DFO and the RRAB as a result of the pre-designation discussions in 2002 is a good example of appropriate documentation.

- **DFO has started drafting a Management Plan, and where possible, is incorporating RRPAB recommendations into the plan. This draft plan will be shared with the Board, looking for advice and input. (May 28, 2010 RRPAB Meeting Minutes).**
- **The Management Plan cannot be finalized until after designation.**
- **As is standard practice with regulatory development, an assessment of the costs and benefits of the proposed regulatory approach on Canadians is prepared in advance of designation and can be shared with the RRPAB.**

**A recommendation in favour of designation will be conditional upon reaching an understanding on these recommendations.**

Some confusion has emerged regarding the DFO policy objectives for an MPA. It is our view that research, education, public awareness and outreach are all important aspects of a successful MPA strategy. This is in accordance with materials the Government of Canada has published as the declared MPA strategy for the past 10 years. **If the MPA Strategy has changed we request an explanation and justification.**

- **The MPA Strategy being referred to is a federal-provincial draft MPA Strategy in the form of a Discussion Paper, not a DFO document, and was never finalized. The Strategy proposed objectives for a marine protected area strategy for the entire coast, some of which went beyond scope of *Oceans Act* MPAs, and include objectives related to the mandates of other federal and provincial agencies (i.e. Parks Canada, Environment Canada, BC Parks, etc.). The old DFO website identified the objectives in this Strategy, without clarifying that they were not just DFO objectives. It was therefore misleading because it was unclear that these were not *Oceans Act* MPA objectives but objectives inclusive of several agencies'/ ministries' mandates.**
- **The new website is clear: *Oceans Act* MPA objectives are tied to the *Oceans Act* mandate (in order to protect and conserve commercial and non-commercial fishery resources and their habitats; endangered marine species and their habitats; unique habitats; marine areas of high biodiversity or biological productivity; and any other marine resource or habitat necessary to fulfill the Minister's mandate.). Nothing has changed with respect to the purpose of *Oceans Act* MPAs.**
- ***Oceans Act* MPAs are a flexible conservation tool. Those activities that are compatible with the proposed conservation objectives of the MPA will be permitted. A decision regarding whether research, education, public awareness and outreach will be permitted within the proposed Race Rocks MPA will be based on an assessment of their compatibility with stated**

conservation objectives. The proposed regulatory approach will be determined in consultation with the RRPAB.

- **Note that the draft 1998 federal/provincial strategy is currently being updated, with intent to finalize it. (May 28, 2010 RRPAB meeting minutes)**

□ Given the fact the previous designation legislation was changed without the knowledge of the RRAB in 2002 we think it is important that once all consultations are complete, if the designation proceeds, the **RRPAB has an opportunity to examine the final version of the legislation before it proceeds to the gazette stage.**

- **It is our intention to share the regulatory intent document with the RRPAB; this document informs the Regulation drafting instructions prepared for Department of Justice. (Christie Chute email to K. Conley March 23, 2010)**
- **Should legal or constitutional issues arise during formal regulatory drafting that result in changes to the original regulatory intent, the RRPAB will be advised of these changes verbally prior to publishing the regulations in the Canada Gazette Part 1.**
- **It should be noted that finalized regulations are considered secret and cannot be shared with external parties.**
- **In addition to our commitment to consult on the finalized regulatory intent, and to inform the RRPAB of any changes to the intent during regulatory drafting, there will also be a final opportunity to comment when the regulations are published in the Canada Gazette Part 1.**

### **The Next Steps**

We ask that discussion of these draft recommendations be placed on the agenda as a priority item with an adequate time allocation at the next meeting of the RRPAB. As the recommendations are in draft form only it is important that all members have the opportunity to comment, revise and add to the recommendations. The objective should be to produce a comprehensive set of recommendations that are adopted by consensus.

It is not expected that DFO staff will respond to the recommendations at this meeting as it is likely staff will require time to consider the implications. It would be very worthwhile for RRPAB members to provide clarification for DFO staff at this meeting if there are any questions or concerns.

Future consideration should be given to a 1-2 day facilitated workshop to wrap up the consultation process. This major investment of volunteer Board member time should only occur once the First Nation's consultation reaches a satisfactory conclusion.

- **Given the timelines associated with preparation of regulatory intent and the need for DFO to solicit valuable Board input on several components that will form the regulatory intent , DFO is planning on having two meetings:**
  - **one meeting in the fall to solicit input on the draft Management Plan, draft Ecosystem Overview and Assessment Report, draft Socio-Economic Report, and responses to these Recommendations, and**
  - **a final meeting in late winter 2011 to review the regulatory intent that will be used to inform drafting of the regulations.**
- **Ongoing input on the various components of the Regulatory Intent will be sought via email.**
- **As was shared with the Board at the May 28, 2010 RRPAB meeting, DFO does not have funds available to hold a two-day, facilitated workshop.**

# Recommendations

## 1. General Recommendations

1. a The present level of environmental protection at Race Rocks must not be diminished in any way as a consequence of the MPA designation.

- **To be addressed in Regulations.**
- **Also covered by Race Rocks Ecological Reserve designation, *Fisheries Act*.**
- **The 1<sup>st</sup> Order Conservation Objective is proposed to be: To protect and conserve an area of high biological productivity and biodiversity, providing habitat for fish and marine mammals, including threatened and endangered species.**
- **A 2<sup>nd</sup> Order Conservation Objective is proposed to be: Impacts from human activities in the area will not compromise the conservation of biodiversity and ecosystem function of the Race Rocks Marine Protected Area.**
- **At the next RRPAB meeting, DFO will be seeking input into the Conservation Objectives.**

1. b All business, recreation, education and research activities presently occurring at Race Rocks must be allowed to continue within the MPA boundaries and such activities must be allowed to adapt with emerging methods and technologies. Any proposed restrictions on these existing activities in the future may only be implemented once evidence of need is provided and consultation with stakeholders takes place.

- **To be addressed in Regulations and Management Plan.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

1. c The MPA management plan must be patterned on and integrated with the existing Ecological Reserve management plan to maximise efficiency, streamline management procedures, avoid overlapping regulations and minimise bureaucracy.

- **The jurisdictions of the Race Rocks proposed MPA and the Race Rocks Ecological Reserve are not the same, and requirements for a management plan for an Ecological Reserve are different than the requirements for a management plan for *Oceans Act* MPA's; therefore it is not feasible to amend the existing ER Management Plan as an MPA Management Plan.**
- **DFO recognizes that the Ecological Reserve Management Plan was developed in close consultation with the former Race Rocks Advisory Board, and wherever possible, will try and use aspects of the ER Management Plan, if they apply to the proposed MPA.**
- **DFO will endeavor to create conservation objectives for the Race Rocks MPA that complement those developed for the Ecological Reserve; the MPA draft Management Plan will be developed to support these Conservation Objectives. Board input will be sought in the development of the draft Management Plan.**

1. d The key roles of BC Parks and Pearson College and the existence of the Ecological Reserve must be recognised in the future operation of Race Rocks MPA. In addition, there should be an ongoing role for community advisors from the stakeholder groups in the development and evolution of the ER/MPA management plan through a permanent Operations Advisory Board.

- **DFO recognizes the significant role that partners (including BC Parks and Pearson College) play in the designation of the Race Rocks MPA, as well as providing advice for the**

**management of the MPA.**

- **Board input to the draft Management Plan will be sought.**
- **Following designation of the MPA, the pre-designation Advisory Board will be dissolved and an MPA Advisory Board (comprised of key partners and stakeholders with interests in the management of the MPA) will be formed.**

1. e The continued human presence of an Eco-Guardian in residence on Great Race Rock is an essential requirement for continued protection of the MPA. DFO should also commit to additional enforcement resources through DFO officers and RCMP.

- **As funding is allocated by appropriation every fiscal year, we cannot commit to this.**
- **Requirements for additional and/or necessary monitoring and enforcement are identified during the regulatory process**
- **“Surveillance, Enforcement and Compliance” is also a section of the Management Plan; Board input will be sought in development of the draft Management Plan.**

1. f DFO should share in the on-site costs of maintaining the Eco-Guardian at Race Rocks as a key element of the enforcement plan. It is important that this funding be applied to enhance the programs on the ‘ground’ within the MPA.

- **As funding is allocated by appropriation every fiscal year, we cannot commit to this.**
- **“Surveillance, Enforcement and Compliance” is a section of the Management Plan; Board input will be sought in development of the draft Management Plan.**
- **A challenge common to all MPA’s is monitoring; the role played by the Eco-Guardian provides a great opportunity for partnering to help achieve monitoring goals.**

1. g Given the high priority placed on the precautionary principle in the Oceans Act a permanent moratorium should be put in place on all harvesting of any resources within the MPA. First Nation’s treaty rights to harvest should be respected provided adequate levels of research first show clear evidence such harvesting is ecologically sustainable and will have negligible impact on the MPA baseline inventory. If First Nations conduct any harvest all take should be reported.

- **To be discussed in the context of regulatory intent development and addressed in Regulations.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**
- **All MPAs permit First Nations Food, Social and Ceremonial fisheries, consistent with the provisions of the *Constitution Act*.**
- **DFO is working towards agreement with local First Nations to assist DFO in the effective management of the MPA**

1. h It should be recognised that the sports fishing community as represented by the Sports Fishing Advisory Board voluntarily gave up the opportunity to fish in the MPA as part of their commitment to preservation of ecosystems and regeneration of stocks through the concept of refuges as valued sources of high productivity.

- **The draft Management Plan for the Race Rocks MPA will include a section on the “Management Framework”. This management measure can be outlined within the Management Plan.**
- **Board input/advice to the draft Management Plan will be sought.**
- **DFO recognizes and is appreciative of the commitment to conservation shown by user groups within the proposed MPA.**

1. i The MPA should remain open to public users with reasonable limitations on appropriate use defined in the management plan in consultation with the Operations Advisory Board.

- **To be discussed in the context of regulatory intent development and addressed in Regulations.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

1. j If possible, personal watercraft and hovercraft should be banned from the MPA. If this is not possible they should be subject to strict speed and proximity limits.

- **To be discussed in the context of regulatory intent development and addressed in Regulations.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

1. k Given the financial constraints facing government, the RRPAB should be consulted before future contracts are awarded to consultants. Some of the past work DFO has contracted related to Race Rocks is inadequate and considerable data and expertise based on local knowledge is available from members of the RRPAB.

- **Most of the contractual work required for satisfying the Regulatory Intent requirements for Race Rocks is complete, with the exception of the Socio-economic Report. Pearson College has been awarded a small contract to update the socioeconomic report, which will require significant input from RRPAB members.**
- **DFO is appreciative of the Board's willingness to provide knowledge and expertise to this report.**

## **2. Science and Education Recommendations**

2. a DFO should support ongoing research within the MPA to advance the understanding of the ecosystem. This should include such basic practices as monitoring baseline inventories, permanent plots or observation sites and a commitment to long term studies.

- **Following development of the Conservation Objectives for the MPA, a scientific monitoring program for the MPA will be developed in conjunction with DFO Science.**
- **The program will be comprised of the following:**
  - **Monitoring Strategy**
  - **Monitoring Protocols**
  - **Scientific Data Collection/Baseline Monitoring**
  - **Monitoring Plan**
- **One of the management strategies currently outlined in the draft Management Plan for Race Rocks is:**
  - **Support and undertake inventories and surveys to contribute to monitoring to systematically expand the understanding of the ecosystem based on established research priorities.**
- **Board input/advice to Conservation Objectives and the draft Management Plan will be sought.**

2. b Knowledge gap assessments are an important element of an MPA scientific strategy. DFO equipment and resources or contract specialists should be allocated to this purpose on a periodic

ongoing basis.

- **One of the management strategies currently outlined in the draft Management Plan for Race Rocks is:**
  - **Identify knowledge gaps and establish research priorities and protocols.**
- **Board input to the draft Management Plan will be sought.**

2. c DFO should provide a summary of the current science and research programs and priorities related to the MPA strategy including the resources available to implement these projects.

- **It is still unclear whether the Board is referring to the Race Rocks Management Plan or the Federal/Provincial MPA Strategy that is currently under development (refer to the 3<sup>rd</sup> bullet of the 3<sup>rd</sup> Procedural Request at the beginning of this document).**
- **We assume that this recommendation refers to the Race Rocks draft Management Plan.**
- **The draft Management Plan will include a section on “Management Measures” in which management strategies, measures and outputs will be outlined.**
- **Board input to the draft Management Plan will be sought.**

2. d Current education and outreach efforts, including racerocks.com, should be continued and supported within the scope of the MPA strategy. Provision should be made to incorporate new technologies and methods.

- **We are assuming that this recommendation refers to the Race Rocks MPA draft Management Plan.**
- **DFO recognizes that Racerocks.com is a valuable educational tool and recognizes the significant contributions of Pearson College.**
- **Education and Outreach is an identified section of the proposed Race Rocks MPA draft Management Plan.**
- **Board input will be sought in the development of the draft Management Plan.**

2. e At the first opportunity, First Nations should be invited to become a partner in sharing and adding to the science and conservation knowledge base.

- **First Nations communities, through a process yet to be agreed upon, will be engaged in the designation process, including adding to the science and conservation knowledge base.**
- **Local First Nations have also been invited to attend RRPAB meetings; up to this point, they have chosen to have a First Nations liaison attend in their place and provide briefings, both to the RRPAB and the communities.**

2. f The permit system for research and education activities, including all media activities, should be integrated with the existing Ecological Reserve permit system to allow rapid turn-around of applications. This permit requirement should include the outlying islets as well as the intertidal and sub tidal zones of the MPA.

- **The *Oceans Act* does not provide the legislative basis for permitting. In some existing MPA regulations (e.g. Bowie Seamount MPA), activities are managed through a requirement to submit an activity plan for approval [or refusal] by the Minister of Fisheries and Oceans. Approval of these activities is based on specific conditions described in the regulation.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

2. g Adaptive management principles in addition to the precautionary principle should be factored into a systematic management plan.

- **One of the management strategies currently outlined in the draft Management Plan for Race Rocks is:**
  - **Apply adaptive management of human activities, based on assessments and mitigation.**
- **Board input to the draft Management Plan will be sought.**

### **3. Conservation Recommendations**

3. a For information purposes it would be of interest for the RRPAB to understand DFO's larger coast wide strategy for MPAs and the timeline for implementing this strategy.

- **A draft *Canada – British Columbia Marine Protected Area Network Strategy* is currently being developed by a federal-provincial working group, with guidance from the draft *National Framework for Canada's Network of Marine Protected Areas*. It builds on previous Regional Federal – Provincial collaborative efforts for MPA network design, including a 1998 discussion paper and work guided by the 2004 Canada-BC Memorandum of Understanding Respecting the Implementation of Canada's Oceans Strategy on the Pacific Coast of Canada. The draft strategy will reflect national and international advances in MPA knowledge and best practices – its objectives have been updated from the 1998 discussion paper and remain reflective of Regional context, while the vision and goals are congruent with the draft *National Framework*. We anticipate stakeholder consultations on the draft strategy will take place early in 2011.**

3. b DFO should commit to including Race Rocks in the context of future MPA initiatives on the coast rather than seeing it as a 'one off'.

- **DFO has never viewed Race Rocks as a “one off”.**
- **We are currently in transition from viewing MPAs developed through a suite of Federal and Provincial legislative tools as separate endeavours; to viewing these special areas as part of a larger plan for national and regional scale networks of MPAs. While the proposed Race Rocks MPA is a “legacy” file, it may ultimately contribute to this broader MPA network planning.**

3. c Consideration should be given to establishing a suitable (several kilometre) buffer zone around the MPA to exclude commercial fishing, dumping and development that could impact the MPA.

- **It is recognized that activities occurring outside the MPA could have an impact on the achievement of the MPA conservation objectives.**
- **As it difficult to enforce a buffer zone, the Department's preference is to consider non-regulatory options for addressing the potential impacts of outside activities (e.g. voluntary measures, guidelines, etc.).**

3. d Efforts to develop alternate and sustainable energy sources for the operation of infrastructure on Great Race Island must be continued with the objective of using green technology and reducing operating costs.

- **The MPA jurisdiction will not apply to the land base of Great Race Island, only the water column and living marine organisms within the defined MPA boundary.**

3. e Improve opportunities for data sharing such as wildlife observations from professional ecotour guides and divers.



- **One of the management strategies currently outlined in the draft Management Plan for Race Rocks is:**
  - **Utilize existing or develop information sharing protocols between agencies, user groups and other organizations.**
- **Board input to the draft Management Plan will be sought.**

#### **4. Cultural and Heritage Recommendations**

4. a Cultural and heritage values at Race Rocks include the lighthouse, First Nations artifacts and shipwrecks. The 150 year old lighthouse is an important historic feature and a designated structure. It is operated by DFO and it is important that there be a long term commitment to proper maintenance of the structure.

- **The cultural and heritage values at Race Rocks will be described in the Socioeconomic Report, currently being updated under contract by Pearson College.**
- **This recommendation was sent to Parks Canada for response. Their response was:**

**The Canadian Register of Historic Places confirmed that the Federal Heritage Buildings Review Office (FHBRO) evaluated the Race Rock Lighthouse because it was a building that was owned by the Government of Canada. The result of the FHBRO evaluation is that the lighthouse achieved a certain level of heritage designation - it is a Recognised Federal Heritage Building. The listing for the lighthouse is at:**

**<http://historicplaces.ca/en/rep-reg/place-lieu.aspx?id=4744&pid=0>**

**Earlier this year, the Heritage Lighthouse Protection Act came into effect. To ensure the protection and conservation of federally owned heritage lighthouses, the Act does the following:**

- **Provides for the selection and designation of heritage lighthouses;**
- **Prevents the unauthorized alteration or disposition of heritage lighthouses;**
- **Requires that heritage lighthouses be reasonably maintained; and**
- **Facilitates sales or transfers of heritage lighthouses in order to ensure the lighthouse's public purpose.**

**Parks Canada's interest in the lighthouse is tied into the department's responsibility for the Act. There is some good information on the Parks Canada website about the Act. The direct link to this section is:**

**<http://www.pc.gc.ca/eng/progs/lhn-nhs/pp-hl/index.aspx>**

**Now that the lighthouse has been declared surplus, the custodian department must look to the Act and the programme for the provisions that are to facilitate the sale or transfer of the property.**

**The custodian contact is more than welcome to contact the manager of the Heritage Lighthouse Programme for further information. His contact information is:**

**Norman Shields**  
**Manager, Heritage Lighthouse Program**  
**Parks Canada**  
**25 Eddy Street (25-5-P)**  
**Gatineau, QC**  
**K1A 0M5**  
**Tel: 819-934-9096**  
**E-mail: Lighthouses.Phares@pc.gc.ca**

4. b Known and as yet undiscovered underwater artifacts should be properly documented and protected throughout the MPA.

- **The protection of artifacts is outside the scope of *Oceans Act* MPAs. OA MPAs are established to conserve and protect fish and marine mammals and their habitats, endangered marine species and their habitats, unique features and areas of high biological productivity or biodiversity.**

## **5. Outreach and Profile Recommendations**

4. a DFO should partner with user groups to raise the national and international profile of Race Rocks as a MPA and promote the unique significance and accessibility of the ecological and educational resources at Race Rocks. The close proximity of an urban centre and the key location of Race Rocks allows this MPA to become an icon in the Salish Sea.

- **The draft Management Plan for the Race Rocks MPA will include a section on “Management Strategies”. National and International Awareness, as a management strategy could be outlined within the Management Plan.**
- **Board input/advice to the draft Management Plan will be sought.**
- **DFO recognizes and is appreciative of the commitment to conservation shown by user groups within the proposed MPA.**

4. b DFO should promote the MPA strategy and Race Rocks in particular as an example of cooperative action to protect the marine environment. Promoting this widely is the best way to encourage awareness and appreciation of Race Rocks and MPAs.

- **The draft Management Plan for the Race Rocks MPA will include a section on “Management Strategies”. Public Awareness, Education and Stewardship, as a management strategy could be outlined within the Management Plan.**
- **Board input/advice to the draft Management Plan will be sought.**
- **DFO recognizes and is appreciative of the commitment to conservation shown by user groups within the proposed MPA.**

4. c DFO should provide MPA use guidelines in a range of languages in addition to English and French to support public awareness and enforcement.

- **The Race Rocks MPA Regulations and Management Plan will be made available in Canada’s two official languages, English and French.**
- **Other publications relating to the Race Rocks MPA and/or materials being made available in other languages would be part of a discussion of Education and Outreach, as part of development of the draft Management Plan, and would be budget dependant.**

## 6. Commercial Operator Recommendations

6. a The MPA should remain open to the general public. The same user regulations should apply to all users.

- **To be discussed in the context of regulatory intent development and addressed in Regulations.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

6. b There should not be a permit fee charged for access to the MPA. Commercial operations are important to the local economy and already make considerable contributions to government revenues through taxes. There should not be major expenditures on a build up of DFO bureaucracy around operation of the MPA. Supporting Pearson College's present very efficient operation would be a much more effective use of limited DFO funds.

- **There is no Authority given or mechanism provided in *Oceans Act* MPAs for user fees for access to MPAs to be collected from users.**

6. c Anchoring or tying up to kelp should be prohibited except in the case of approved facility maintenance or in emergency situations.

- **To be discussed in the context of regulatory intent development and addressed in Regulations.**
- **Activities to be allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

6. d The Pacific Whale Watch Association Guidelines for operation of vessels within the MPA includes stringent standards for the speed and proximity of vessels to marine mammals and islets. These standards should be adopted by all users and enforced by DFO.

- **Vessel speeds can be specified in Regulations.**
- **DFO would be looking for a clear recommendation from the Board on this.**
- **This could be difficult to enforce. DFO Conservation and Protection would have to be consulted.**

6.e An annual meeting with the user groups, vessel operators and the Race Rocks Ecoguardian should be arranged to improve communication.

- **Following designation of the Race Rocks MPA, an Advisory Board will be formed, comprised of key stakeholders, government agencies and user groups; this group will provide advice to DFO on the management of the MPA and allow for the development of ongoing relationships.**

6. e It is proposed that no vessels enter the MPA boundary when whales or dolphins are present in the MPA. This is an existing voluntary measure established by the Pacific Whale Watch Association operators.

- **This could be addressed in Regulations.**
- **Activities to be allowed/ not allowed in the MPA boundaries must be compatible with the Conservation Objectives (compatible/incompatible activities).**
- **Board input/advice to Conservation Objectives will be sought.**

6. f The dive community already focuses diver education on specific buoyancy training, a no take policy and the industry program Project Aware. These measures should be adopted as the standard rather than DFO adding another layer of regulations.

- **Unless there is a specific exception for the dive community in the regulations, the removal of living marine organisms and their habitats will be prohibited.**
- **Items attached to the ocean bottom are also protected under the Ecological Reserve regulations.**
- **The draft Management Plan for the Race Rocks MPA will include a section on the “Management Framework”. This management measure can be outlined within the draft Management Plan.**
- **Board input/advice to the draft Management Plan will be sought.**
- **DFO recognizes and is appreciative of the commitment to conservation shown by user groups within the proposed MPA.**

6. g Dive masters and dive vessel skippers should receive specialised training focused on speed control, close approach points for safe diver recovery and restrictions on vessel approaches to marine mammals. These procedures are in place now.

- **The draft Management Plan for the Race Rocks MPA will include a section on the “Management Framework”. This management measure can be outlined within the Management Plan.**
- **Board input/advice to the draft Management Plan will be sought.**

6. e It should be recognised that seals and sea lions may approach divers on their own free will and this cannot be controlled or regulated.

- **DFO recognizes that people cannot be held responsible for the curious nature of marine mammals, as long as appropriate measures for avoidance are taken.**

## **7. Recommendations to Other Departments/Agencies**

7. a DFO should take on an advocacy role for Race Rocks MPA in assisting other government departments and agencies to meet their obligations under the Oceans Act.

- **DFO will work with other government departments and agencies to ensure that the MPA regulations are understood and respected.**

7. b Aircraft over flights should be restricted to altitudes above 1500 metres which is also the accepted US standard. Coast Guard flights should be restricted to essential services and mitigation guidelines should be developed.

- **With expert marine mammal opinion, a limit of 1000 feet could be proposed for the Regulations. This would only apply to aircraft involved in marine wildlife viewing.**
- **However, there would be many exceptions and Transport Canada Regulations would supersede the MPA Regulations.**
- **Consultation with DFO Marine Mammal staff and Conservation and Protection would have to occur.**

7. c DFO should work with DND to further mitigate the acoustic impacts of explosive discharges at the nearby Rocky Point Base and restrict other operational activities such as vessel movements, aircraft operations and military exercises in the proximity of the MPA.

- **DFO is currently working with, and will continue to work with, DND on mitigating potential impacts of operations on the MPA.**

7. d A protocol should be in place for emergency assistance in case a pollution event or marine incident occurs that could threaten Race Rocks MPA. This should include the allocation of Navy and Coast Guard assets including tractor tugs and containment booms located at the nearby Esquimalt Base.

- **Existing MPA regulations include a provision requiring that all incidents / accidents that are likely to disturb, damage or destroy the MPA be reported to the Canada Coast Guard within two hours of occurrence.**

7. e The MPA should be clearly marked on all charts with accompanying notes in such a way that it is clear that special regulations apply in the area. This could be done in the same way that military exclusion zones such as Whiskey Golf off Nanoose Bay are identified.

- **DFO will work with the Canadian Hydrographic Service to ensure that the MPA appears on hydrographic charts.**

## **8. Recommendations Regarding First Nations**

8. a The community, including the First Nations community, has a history of a positive working relationship related to Pearson College and Race Rocks. The dedication ceremony at Pearson College and the burning ceremony at Beecher Bay created the foundation of a cooperative working relationship around Race Rocks in 1999-2002. The RRPAB is disappointed that the most recent First Nations consultation has been entirely separate until this point. We recommend that there be transparency regarding the consultation process and the entire community be given the opportunity to work together on the protection of Race Rocks.

- **Local First Nations have been invited to attend RRPAB meetings; up to this point, they have chosen to have a First Nations liaison attend in their place and provide briefings, both to the RRPAB and the communities.**
- **The Chiefs of these Communities understand the concerns from the Board regarding the level of commitment of First Nations to the designation process; therefore the MOU was released to all members of the RRPAB.**
- **DFO has consistently given updates to the RRPAB on progress of engagement with First Nations in the designation process.**

8. b Before proceeding with a great deal more detailed work on the MPA process, especially when considering the volunteer time involved, it is important that DFO and First Nations are confident that a suitable agreement between the government and First Nations is emerging.

- **DFO and First Nations Memorandum of Understanding has been signed by Chiefs of T'Sou-ke Nation, Beecher Bay First Nation and Songhees Nation and the Regional Director General of DFO, Pacific Region.**
- **The Chiefs of these Communities understand the concerns from the Board regarding the level of commitment of First Nations to the designation process; therefore the MOU was released to all members of the RRPAB.**
- **DFO is meeting with Esquimalt to hear any interests they have with respect to engaging on the Race Rocks MPA process.**

8. c Ideally any agreements made by DFO and First Nations should be made public before designation. We have been told this will not occur. As a minimum, any impacts on the current users and the contractual agreement between BC Parks and Pearson College or future operations of Race Rocks MPA that arise as a consequence of an agreement between DFO and First Nations should be presented to the RRPAB before designation occurs.

- **DFO and First Nations Memorandum of Understanding has been signed by Chiefs of T'Sou-ke Nation, Beecher Bay First Nation and Songhees Nation and the Regional Director General of DFO, Pacific Region.**
- **The Chiefs of these Communities understand the concerns from the Board regarding the level of commitment of First Nations to the designation process; therefore the MOU was released to all members of the RRPAB.**
- **DFO is meeting with Esquimalt to hear any interests they have with respect to engaging on the Race Rocks MPA process.**