

Rocky Habitat Site Proposal Final Recommendation

The Rocky Habitat Management Strategy Initial Proposal Process (2020-2021)

Proposed Site

Site Name: Fogarty Creek Marine Conservation Area

Site Map: http://seasket.ch/y0uvvr4X_7

Proposal Materials: <https://bit.ly/2NMOnj7>



Final Recommendation

This document summarizes the site proposal evaluations conducted by the Rocky Habitat Working Group. The summary below represents an evaluation and recommendation synopsis for Fogarty Creek Marine Conservation Area. During evaluations, the agencies and Working Group identified considerations for potential recommendation by the Ocean Policy Advisory Council (OPAC). Consideration are those aspects of a proposal, identified through the evaluation process, which the Working Group believes should be addressed to facilitate implementation of the designation as proposed. These considerations were outlined in draft initial recommendation summaries, which were made available for a 30-day public comment period. Proposers were invited to submit written responses to the initial recommendations, and present their proposals and responses in the April 29, 2021 Working Group meeting. Following discussion with proposal presenters, the Working Group deliberated and crafted their final recommendations.

Final Recommendation: *Not Recommended, Continuing Consultation (9:3)*

Summary of Considerations

The Rocky Habitat Working Group identified the implementation considerations listed below for the proposed Fogarty Creek Marine Conservation Area. Any potential recommendation from OPAC should address these considerations as outlined in the following summary to ensure that implementation of the proposed site is a) consistent with state agency authority and coastal policy, b) appropriately inclusive and representative of stakeholder interests, c) reasonably achievable within the existing framework of rocky habitat site management, and d) in balance with the merits and goals of the proposed site.

Any potential recommendation for implementation of this site should address the following considerations:

- Site management with respect to goals, harvest restrictions, and use
- Concerns about enforcement, equity of access to harvest, marine reserves perceptions
- Additional needs for stakeholder engagement
- Site boundary change and overlap with Boiler Bay MRA

The Fogarty Creek area is the northern portion of an extensive section of diverse rocky habitat on the central coast that stretches south to the Otter Rock area. It is a high visibility, high use area popular for activities such as sightseeing, beachcombing, dog walking, and occasionally, some harvest and fishing. The rocky areas are home to nesting seabird colonies and pinniped haulout areas, as well as diverse submerged aquatic vegetation (SAV) including several species of seagrasses and shallow water kelp beds.

The site is adjacent to Boiler Bay Marine Research Area which has been used by scientists at Oregon State University for many years for intertidal monitoring and marine ecology research. Fogarty Creek is also a long-term monitoring site for studies by the Partnership for Interdisciplinary Studies of Coastal Oceans (PISCO) research consortium. This has led to some recognition that ocean acidifications (OA) is causing impacts in the nearshore in general, and that protection of submerged aquatic vegetation may not have all the intended consequences of ameliorating the impacts of OA. The proposal suggests that this site could be used to test this hypothesis.

The concerns expressed in the proposal are primarily focused on protecting seabird colonies, pinniped haulouts, and SAVs. The primary goal is to preserve site biodiversity in its natural state by designating the site as a no-take marine conservation area. The proposal emphasizes preservation of SAVs for scientific research and monitoring, as well as general habitat protection. Key natural resources at the site are well-described, as well as other unique features such as shallow-water kelp beds. Typical site uses are also clearly described, with a focus on continued allowance of non-consumptive activities while limiting harvest to scientific and education permits only. The proposal is for a unique site that has some important qualities, but it is adjacent to other well-known, high use areas. It is unclear whether the proposed new designation would aid existing site management in the area.

The goals of the site align with Rocky Habitat Management Strategy (Strategy) conservation and broader Territorial Sea Plan goals. However, the proposed restrictions on commercial and recreational fish harvest are inconsistent with the Strategy goal of focusing on resource protection while allowing for appropriate use. As a high-use area for recreation as well as harvest, strong justification for these provisions would be required to rationalize these activities as inappropriate site uses. The primary impact of restricting fish harvest at this site would be to shore anglers, rather than boaters. Other than

kayaks, there is unlikely to be any fishing from boats. Closure of invertebrate harvest is also not completely necessary given the offshore extent of the proposed area. There is unlikely to be watercraft-based invertebrate harvest in the offshore area, calling into question the need for the subtidal harvest restrictions.

The boundaries selected align with natural landmarks, which aids in visual understanding of where site rules apply, potentially aiding in regulatory compliance and enforcement. Enforcement of harvest regulations would be relatively straightforward. However, the broad harvest closures may increase enforcement needs at this site, and local capacity to respond is likely to already be constrained. In addition, several areas within site boundaries are not readily visible from the upland, and would increase enforcement difficulty.

The proposed harvest restrictions also present potential issues with equity of access to harvest along this portion of the coast for those species which would be restricted from harvest. Most nearby areas that allow sport invertebrate or algae harvest are either closed to harvest or are difficult or dangerous to access. Harvest closures at this location would necessarily redirect harvesters to other locations nearby, which may be less safe to access and will increase pressure on those sites. Displacement of harvesters would also increase enforcement needs at other sites, and potentially increase conflicts with private landowners. Implementation of a new site designation also raises concerns regarding potential confusion with variable site management on a section of the coast which already has many different designations and limitations nearby.

While the extent of the subtidal area is limited, closure of commercial and recreational fishing at this site is insufficiently justified. Since the subtidal habitat is very shallow and essentially inaccessible to boats (except non-motorized vessels such as kayaks), offshore fishing pressures are relatively low. However, shore angling does occur at the site and would necessarily be eliminated. There is also a great deal of local controversy about Marine Reserves, so it is conceivable that some may perceive any area closed to fishing as equivalent to a Marine Reserve. At this time, there is insufficient justification to impose no-take restrictions on fish harvest.

Limited public input was gathered to inform the development of this proposal, which is viewed as a key component of a successful proposal, and to remain consistent with the Strategy. Without additional public input for this site, the proposal is inconsistent with several Strategy components, including Objectives c. & e., Management Principles iv.a. & e., and the principles outlined in Section A.5.b. Education & Public Awareness. Public input is needed to ensure that site management appropriately reflect community concerns and desires.

The southern portion of the proposed designation overlaps with the northern portion of the Boiler Bay Marine Research Area. This overlap is difficult to understand, and unclear as to the necessity of annexing that portion of the MRA. The proposer was contacted by researchers at the PISCO research consortium to request boundary adjustments to exclude the portion around Rabbit Rock, south of Fogarty Creek Beach where PISCO has conducted regular research and monitoring activities for over 20 years. The proposer has indicated they are amenable to modification of the southern boundary to reduce or eliminate the overlap with Boiler Bay MRA, and request that evaluators consider the boundary modification below to accommodate the PISCO request to ensure no impacts to their long-term site research and monitoring. If the Boiler Bay MRA were to require modification, it would change site

management for the area annexed into the proposed MCA, however, the border of the MRA would still need to change.

Site boundary adjustments:



Original proposed site boundaries



Modified site boundaries

Where possible, the Working Group supports addressing the considerations and concerns above through statewide and site-specific non-regulatory management plans, where appropriate, with a focus on volunteer monitoring, interpretation, education, and awareness efforts. Additional considerations for potential recommendation include the other merits and perspectives identified above and in the full packet of evaluation materials, in balance with the proposed site goals.