

Notice of Intention to Declare Four Marine Mammal Sanctuaries

I give notice that I intend (with the consent of the Minister of Energy, the Minister of Fisheries, and the Minister of Transport) to declare, pursuant to section 22 of the Marine Mammals Protection Act 1978, four marine mammal sanctuaries, as follows:

- (a) A sanctuary, to be called the West Coast North Island Marine Mammal Sanctuary, comprising all the areas of the sea enclosed:
- (i) on the landward side by the line of mean high water springs extending alongshore in a north-south direction from a point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E), to a point on Oakura Beach (approximately 39°07.08'S and 173°55.87'E); and
 - (ii) on the seaward side by a line on a bearing of 270° to a point where it intersects with the outer limit of the territorial sea from the point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E), thence by a line on a bearing of 270° to a point where it intersects with the outer limit of the territorial sea limit from the point on Oakura Beach (approximately 39°07.08'S and 173°55.87'E), and thence by a line joining the above-mentioned seaward points corresponding with the outer limits of the territorial sea;

including all the areas of the sea contained in the internal waters within the north-south extent of the area defined above between the point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E), to the point on Oakura Beach (approximately 39°07.08'S and 173°55.87'E).

- (b) A sanctuary, to be called the Clifford and Cloudy Bay Marine Mammal Sanctuary, comprising all the areas of the sea enclosed:
- (i) by the line of mean high water springs from a point on Cape Campbell (at approximately 41°43.54'S and 174°16.57'E) thence by a line running in an easterly direction to a point at sea (at approximately 41°43.54'S and 174°32.59'E), thence by a line running in a north-westerly direction to a point on West Head on the Tory Channel (at approximately 41°12.79'S and 174°18.93'E); and
 - (ii) by the line of mean high water springs alongshore in a north-south direction between the point on West Head on the Tory Channel (at approximately 41°12.79'S and 174°18.93'E) to the point on Cape Campbell (at approximately 41°43.54'S and 174°16.57'E).
- (c) A sanctuary, to be called the Catlins Coast Marine Mammal Sanctuary, comprising all the areas of the sea enclosed:
- (i) by the line of mean high water springs from a point on Three Brother's Point (at approximately 46°39.74'S and 169°12.28'E) by a line running in a southerly direction to a point at sea (at approximately 46°44.74'S and 169°12.28'E), thence by a line running in a westerly direction to a point at sea (at approximately 46°43.30'S and 168°31.09'E), thence by a line running in a northerly

direction to a point marked by the line of mean high water springs on Bushy Point (at approximately 46°36.37'S and 168°31.09'E); and

- (ii) by the line of mean high water springs alongshore in an east-west direction between the point on Bushy Point (at approximately 46°36.37'S and 168°31.09'E) to the point on Three Brother's Point (at approximately 46°39.74'S and 169°12.28'E);
- (d) A sanctuary, to be called the Te Waewae Bay Marine Mammal Sanctuary, comprising all the areas of sea enclosed within Te Waewae Bay:
- (i) by the line of mean high water springs from a point on Pahia Point (at approximately 46°19.31'S and 167°41.19'E) to a point marked by the line of mean high water springs on Sand Hill Point (at approximately 46°15.34'S and 167°19.08'E) on the seaward side constituting a total distance of approximately 16.1 nautical miles; and
 - (ii) by a line joining the point on Pahia Point (at approximately 46°19.31'S and 167°41.19'E) and the point on Sand Hill Point (at approximately 46°15.34'S and 167°19.08'E) along the line of mean high water springs on the landward side.

I intend to impose in respect of all the sanctuaries the restrictions on the carrying out of acoustic seismic surveys stated in Schedule 1.

I intend to impose the restriction on the carrying out of mining stated in Schedule 2, in respect of the part of the proposed West Coast North Island Marine Mammal Sanctuary described as all the areas of the sea enclosed:

- (a) on the landward side by the low-water line extending along the baseline of the territorial sea in a north-south direction from a point on Maunganui Bluff (at approximately 35°45.54'S and 173°33.30'E), to a point on Oakura Beach (at approximately 39°07.08'S and 173°55.87'E); and
- (b) on the seaward side by a line on a bearing of 270° to a distance of two nautical miles from the point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E), thence by a line running in a south-easterly direction at two nautical miles parallel to the baseline of the territorial sea to a point at sea being the point of intersection with a line on a bearing of 258° from Te Waha Point (at approximately 36°56.10'S and 174°27.21'E), thence to a point at sea at a distance of four nautical miles along that same line from Te Waha Point, thence by a line running in a south-easterly direction parallel to the baseline of the territorial sea to a point at sea at a distance of four nautical miles and at the point of intersection with the line on a bearing of 255° from Raupuke Beach Road (at approximately 37°54.28'S and 174°46.27'E), thence along that same line to a point at sea two nautical miles from the point on Raupuke Beach Road, thence by a line in a south-easterly direction continuing at a distance of two nautical miles parallel to the baseline of the territorial sea to a point at a distance of two nautical miles by a line on a bearing of 270° from the point on Oakura Beach (approximately 39°07.08'S and 173°55.87'E);

excluding all the areas of the sea contained in the internal waters within the north-south extent of the area defined above between the point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E), to the point on Oakura Beach (approximately 39°07.08'S and 173°55.87'E).

Maps of the sanctuaries are available for inspection on the website of the Department of Conservation

www.doc.govt.nz

The maps are indicative only, and if there is a conflict between any of them and the verbal description in this notice of the areas to which it relates, the verbal description prevails.

I shall consider any written submission on my intention to create these sanctuaries or on any of the restrictions I intend to impose if:

- (a) it is addressed to The Minister of Conservation, care of:
 - (i) Marine Mammal Sanctuaries Submissions, Department of Conservation, PO Box 11146, Wellington; or
 - (ii) hectors.sanctuaries@doc.govt.nz; and
- (b) I receive it within 28 days after the publication of this notice in the *New Zealand Gazette*.

Schedule 1

Restrictions on the Carrying out of Acoustic Seismic Surveys

(1) No person may carry out an acoustic seismic survey from a vessel in the sanctuary unless he or she has, at least one month before doing so:

- (a) notified the Head Office of the Department of Conservation in Wellington in writing of his or her intention to carry it out; and
- (b) given the director-general a written undertaking, in a form satisfactory to the director-general, to give the director-general, within two months of the completion of the survey, a written report on all interactions between cetaceans and:
 - (i) the vessel or vessels used; or
 - (ii) any equipment on or operated from the vessel or vessels used; or
 - (iii) any person on the vessel or vessels used.

(2) No person may carry out from a vessel in the sanctuary an acoustic survey using vibrations caused by explosions.

(3) No person may cause an acoustic seismic survey to be carried out from a vessel in the sanctuary unless the person ensures that, while the vessel is in the sanctuary for the purpose of carrying out the survey, all the following requirements are complied with on the vessel:

Trained observers

- (a) At all times, there must be on board at least two observers trained and experienced in whale and dolphin identification and behaviour, passive acoustic monitoring techniques, and distance estimation.
- (b) At all times during daylight hours while the survey is being carried out, at least one qualified observer must maintain a watch for cetaceans.

Pre-start procedures

- (c) For at least the 30 minutes before an acoustic source is activated or reactivated during daylight hours, at least one qualified observer must continuously make visual observations all around the vessel and source for the presence of cetaceans:
 - (i) from the bridge, or preferably an even higher vantage point; and
 - (ii) using both binoculars and the naked eye.
- (d) For at least the 30 minutes before an acoustic source is activated or reactivated during poor visibility, passive acoustic monitoring for the presence of cetaceans must be carried out by at least one qualified observer.

Use of mitigating acoustic sources

- (e) While no acoustic source is being used for data acquisition (for example, during manoeuvring of the vessel), a low-level mitigating acoustic source must be running.

Activating acoustic source

- (f) No acoustic source may be activated or reactivated if a cow-calf pair of cetaceans can be seen within 1,500m of the vessel or source.
- (g) No acoustic source may be activated or reactivated at any time if a cetacean has been seen within 500m of the vessel or source, or detected (at any distance) by passive acoustic monitoring, during the previous 30 minutes.
- (h) No acoustic source may be activated or reactivated at any time during poor visibility if, during the previous 24 hours, three or more situations have arisen that either:
 - (i) required an acoustic source to be turned off under any of paragraphs (l) to (n); or
 - (ii) but for the fact that no acoustic source was running, would have required an acoustic source to be turned off under any of those paragraphs.
- (i) No acoustic source may be activated or reactivated at any time during poor visibility if:
 - (i) no acoustic source on the vessel has been active during the previous 24 hours; or
 - (ii) during the previous two hours, cetaceans have been seen from the vessel (or a spotter vessel or aircraft acting on the person's behalf) within 10,000m of the place where the source is.
- (j) An acoustic source must not be activated or reactivated except by gradually increasing power over a period of at least 30 minutes.
- (k) While an acoustic source is being activated or reactivated (otherwise than during poor visibility), at least one qualified observer must continuously make visual observations all around the vessel and source for the presence of cetaceans:
 - (i) from the bridge, or preferably an even higher vantage point; and
 - (ii) using both binoculars and the naked eye.

Requirements to shut down

- (l) If, while an acoustic source is activated, a cow-calf pair of cetaceans is seen to be or come within 1,500m of the vessel or source, the source must immediately be shut down.
- (m) If, while an acoustic source is activated, a cetacean is seen to be or come within 500m of the vessel or source, the source must immediately be shut down.
- (n) If a cetacean is detected (at any distance from the vessel) by passive acoustic monitoring while an acoustic source is activated during poor visibility, the source must immediately be shut down.

Operations during poor visibility

- (o) While an acoustic source is being activated or reactivated during poor visibility, passive acoustic monitoring for the presence of cetaceans must be continuously maintained on the vessel.

(4) Paragraphs (c) and (d) of subclause (3) are cumulative.

(5) Paragraph (e) of subclause (3) does not limit or affect paragraphs (l) to (n) of that subclause.

Schedule 2

Restriction on Mining

(1) No person may carry out mining in the part of the sanctuary subject to mining restrictions unless it is:

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- (a) mining for petroleum; or
- (b) a minimum impact activity.

(2) Subclause (1) does not affect operations carried out under section 57 of the Crown Minerals Act 1991.

Dated at Wellington this 26th day of June 2008.

STEVE CHADWICK, Minister of Conservation.

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