

Notice of Intention to Redefine the Banks Peninsula Marine Mammals Sanctuary

Pursuant to section 22(1) of the Marine Mammals Protection Act 1978, I give notice that I intend, with the consent of the Minister of Energy, the Minister of Fisheries and the Minister of Transport, to:

- (a) redefine the Banks Peninsula Marine Mammals Sanctuary declared by the Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1988 so that it is all the area 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 the northern bank of the mouth of the Waipara River (at approximately 43°09.43'S and 172°47.67'E), to the southern bank of the mouth of the Rakaia River (at approximately 43°54.22'S and 172°11.69'E); and

(ii) on the seaward side by a line on a bearing of 122° to a point where it intersects with the outer limit of the territorial sea from the northern bank of the mouth of the Waipara River (at approximately 43°09.43'S and 172°47.67'E), thence by a line on a bearing of 155° to a point where it intersects with the outer limit of the territorial sea from the southern bank of the mouth of the Rakaia River (at approximately 43°54.22'S and 172°11.69'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 (other than lagoons and Lake Ellesmere) within the north-south extent of the sanctuary between the northern bank of the mouth of the Waipara River (at approximately 43°09.43'S and 172°47.67'E), to the southern bank of the mouth of the Rakaia River (at approximately 43°54.22'S and 172°11.69'E).

- (b) impose on the redefined sanctuary the restrictions stated in the Schedule of this notice.

A map of the sanctuary as I intend to redefine it is available for inspection on the website of the Department of Conservation

www.doc.govt.nz

The map is indicative only, and if there is a conflict between it 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 redefine the sanctuary 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

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 seismic 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.

Dated at Wellington this 26th day of June 2008.

STEVE CHADWICK, Minister of Conservation.

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