

## **Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020**

Pursuant to section 22 of the Marine Mammals Protection Act 1978, the Minister of Conservation, with the consent of the Minister of Energy and Resources, the Minister of Fisheries, and the Minister of Transport, gives the following notice.

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### **Notice**

- 1 Title**  
This notice is the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020.
- 2 Commencement**  
This notice comes into force on 5 November 2020.

**3 Principal notice**

This notice amends the Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1988 (the **principal notice**).

**4 Clause 2 amended (Interpretation)**

- (1) In clause 2(1), revoke the definitions of **acoustic seismic survey, acoustic source, activate, cetacean, during poor visibility, explosion, low-water line, mitigating acoustic device, passive acoustic monitoring, qualified observer, soft start, source of acoustic pressure waves, source vessel, source vessel observer, and territorial sea.**

- (2) In clause 2(1), insert in their appropriate alphabetical order:

**existing permit—**

- (a) means a mining permit, an exploration permit, or a prospecting permit that has been granted and has not expired or been surrendered or revoked on the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force; and
- (b) includes—
- (i) an extension of land granted to the area of an existing permit, an existing privilege, or a subsequent permit under the applicable mining legislation after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force; and
- (ii) an authorisation granted under applicable mining legislation that allows seismic surveying outside the area of an existing permit, an existing privilege, or a subsequent permit after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force

**existing privilege** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**exploration permit** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**hazard assessment** means—

- (a) an assessment of faults following a major seismic event; or
- (b) an assessment of the likelihood of, or for the purpose of mitigating the potential effects of, an anticipated natural hazard or a maritime accident, incident, or mishap

**mining** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**mining permit** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**petroleum** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**prospecting permit** has the meaning given by section 2(1) of the Crown Minerals Act 1991

**seabed mining**—

- (a) means mining in the seabed; but
- (b) excludes mining for petroleum

**subsequent permit**—

- (a) has the meaning given by section 2(1) of the Crown Minerals Act 1991; and
- (b) includes subsequent permits granted after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force

**5 Clause 3 amended (Definition and declaration of marine mammal sanctuary)**

Replace clause 3(1) with:

- (1) All the place described in Schedule 1 is defined for the purposes of subclause (2), other than—
  - (a) the Akaroa Marine Reserve created by the Marine Reserve (Akaroa) Order 2014; and
  - (b) the Pohatu Marine Reserve created by the Marine Reserve (Pohatu) Order 1999.

**6 Clause 7 replaced (Restrictions on seismic surveying)**

Replace clause 7 with:

**7 Restrictions on seismic surveying**

- (1) A person must not carry out a seismic survey from a vessel in the sanctuary created by clause 3(1) unless the seismic survey is undertaken in accordance with one of the following exemptions:
  - (a) under an existing permit, an existing privilege, or a subsequent permit:
  - (b) for decommissioning of mining infrastructure even where there is no existing permit, existing privilege, or subsequent permit in force:
  - (c) for an urgent hazard assessment:
  - (d) for Level 3 surveys as defined in the *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations*:
  - (e) pursuant to an approval by the Minister of Conservation and the Minister of Energy and Resources for an activity—

- (i) that is nationally significant; and
  - (ii) that has a purpose that cannot be achieved if the activity is conducted outside the sanctuary area.
- (2) A seismic survey authorised by a permit under the Crown Minerals Act 1991 that does not qualify for an exemption under subclause (1)(a) is not eligible for an approval by the Ministers under subclause (1)(e).
- (3) A seismic survey that is exempt from the prohibition must comply with the *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations* when undertaking seismic surveying within the sanctuary.
- (4) Surveyors undertaking a Level 3 survey under subclause (1)(d) must provide the Director-General of Conservation with the following information within 30 days of completing the survey:
- (a) the date and time of the survey commencement and of its completion;
  - (b) the type of sound source used;
  - (c) the geographic area surveyed.

**8 Restriction on seabed mining**

A person must not carry out seabed mining in the sanctuary created by clause 3(1) unless the seabed mining is undertaken under an existing permit, an existing privilege, or a subsequent permit.

**7 Schedule 1 replaced**

Replace Schedule 1 with the Schedule 1 set out in Schedule 1 of this notice.

**8 Schedule 1A replaced**

Replace Schedule 1A with the Schedule 1A set out in Schedule 2 of this notice.

**Schedule 1**  
**Schedule 1 replaced**

cl 7

**Schedule 1**  
**Banks Peninsula Marine Mammal Sanctuary**

cl 3(1)

All the areas of the sea enclosed by a line—

- (a) commencing at a point at the mouth of the Waitaki River (approximately 44°56.45'S and 171°08.74'E); then
- (b) proceeding in a north and north-easterly direction along the line of mean high-water springs to a point on that line near the mouth of the Jed River (approx-

- mately 42°51.003'S and 173°18.927'E), being the south-western corner of the Te Rohe o Te Whānau Puha Whale Sanctuary); then
- (c) proceeding in a south-easterly direction along the south-western boundary of the Te Rohe o Te Whānau Puha Whale Sanctuary to a point on that boundary (approximately 43°02.62'S and 173°43.09'E); then
  - (d) proceeding in a southerly direction along a line 20 nautical miles distant from the previously mentioned western boundary to a point on that line (approximately 45°03.90'S and 171°34.95'E); then
  - (e) proceeding in a straight line in a north-westerly direction to the point of commencement,—
- 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 a point near the mouth of the Jed River (approximately 42°51.003'S and 173°18.927'E), and a point at the mouth of the Waitaki River (approximately 44°56.45'S and 171°08.74'E).

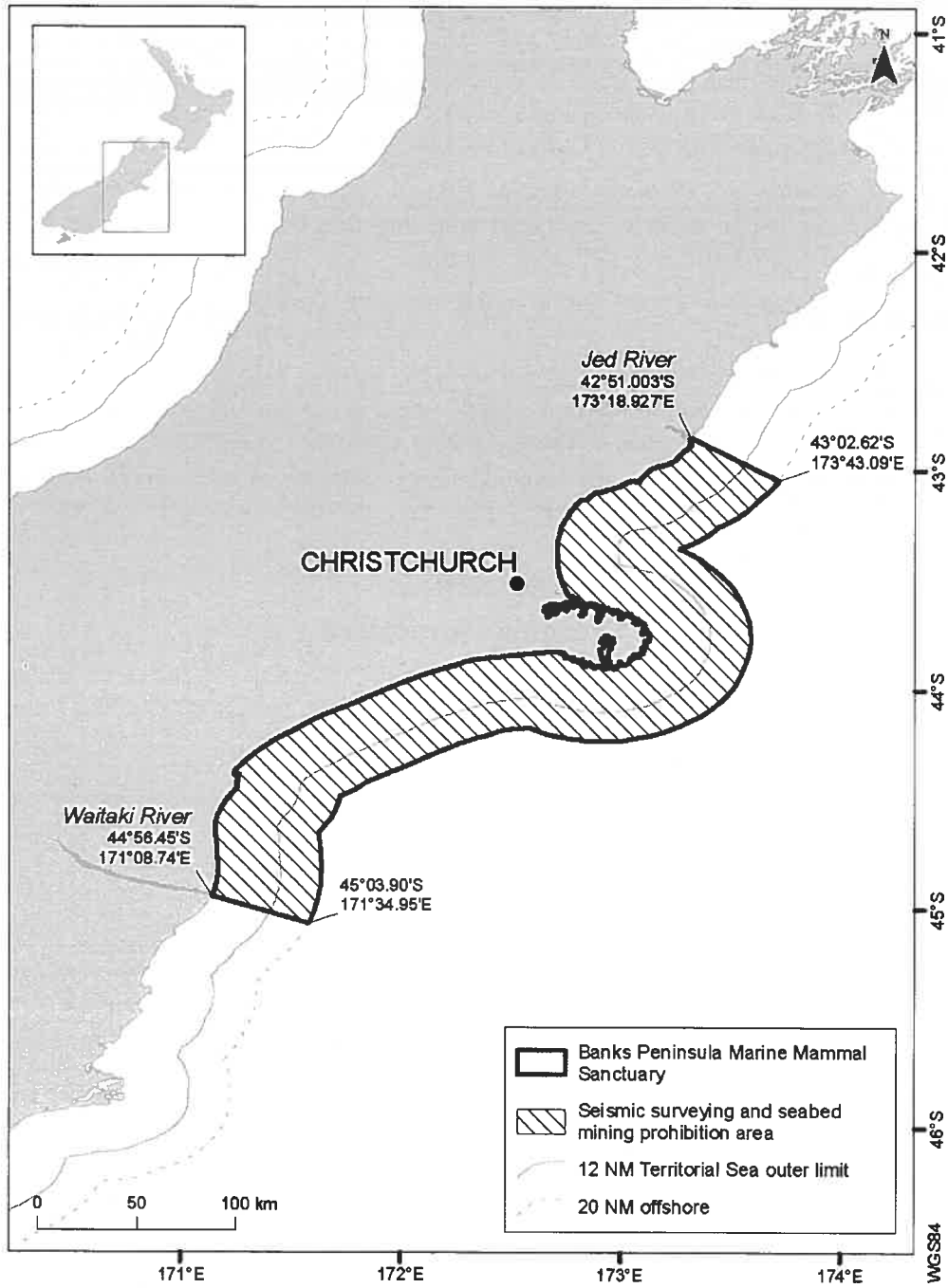
**Schedule 2**  
**Schedule 1A replaced**

cl 8

**Schedule 1A**  
**Map of sanctuary**

cl 3(3)

Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020



Gisborne  
Dated at Wellington this 26<sup>th</sup> day of September 2020.



Minister of Conservation.

### Explanatory note

*This note is not part of the notice, but is intended to indicate its general effect.*

This notice, which comes into force on 5 November 2020,—

- amends clause 3 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1998 (the **principal notice**) to exclude from the declared area of the Banks Peninsula Sanctuary (the **sanctuary**) 2 marine reserves that must be excluded from the sanctuary area in terms of section 22(4) of the Marine Mammals Protection Act 1978 (the **Act**); and
- replaces clause 7 of the principal notice with *new clauses 7 and 8*, containing changed restrictions on seismic surveying and introducing a prohibition on seabed mining; and
- replaces Schedule 1 of the principal notice with a *new Schedule 1*, containing a verbal description of the expanded sanctuary area; and
- replaces Schedule 1A of the principal notice with a *new Schedule 1A*, containing a map of the expanded sanctuary area; and
- revokes and inserts definitions in clause 2(1) of the principal notice that correspond to amendments made by this notice.

The intention to redefine and vary the sanctuary was notified in the *Gazette* on 23 June 2020. This redefinition and variation is made with the consent of the Minister of Energy and Resources, the Minister of Fisheries, and the Minister of Transport.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This notice is administered by the Department of Conservation.

