31 March 2011

Proposed Regional Coastal Plan:
Kermadec and Subantarctic Islands
C/- The Department of Conservation
P O Box 10420
WELLINGTON 6143

Attention: Sarah Hucker

Dear Sarah

Re: Proposed Regional Coastal Plan: Kermadec and Subantarctic Islands

Please find enclosed a submission on the above mentioned plan.

Kind regards

Guy Kerrison
Manager Planning Unit, Policy Group

On delegated authority of Hon Kate Wilkinson
Minister of Conservation
Submission on the Proposed Regional Coastal Plan:
Kermadec and Subantarctic Islands

Under Clause 5 of Schedule 1 of the Resource Management Act 1991

To: Proposed Regional Coastal Plan
Kermadec and Subantarctic Islands
C/- The Department of Conservation
PO Box 10 420
WELLINGTON 6143
Attn: Sarah Hucker

Part 1 – Personal details

From: Hon Kate Wilkinson
Minister of Conservation

Part 2 – Trade competition questions

No – The Minister of Conservation could not gain an advantage in trade competition
through this submission.

Part 3 - Submission

1. The specific provisions of the proposed plan that my submission
relates to are:

Issue 1, the explanation preceding the policies for “Control of Surface
Water Activities”, last paragraph, page 25.
The sentence:
Surface Water activities around the islands need to be managed to maintain a high
quality environment that preserves natural character including landscape and
amenity and the preservation of remoteness and wildness values is inconsistent with
Policy 13(2) of the New Zealand Coastal Policy Statement 2010.
Support/Oppose

Support

Reasons
The plan must give effect to the New Zealand Coastal Policy Statement 2010.

I seek the following decision from Minister of Conservation:
Reword the sentence to read:
Surface Water activities around the islands need to be managed to maintain a high
quality environment that preserves natural character, including landscape and
amenity and the preservation of remoteness and wilderness.

2. The specific provisions of the proposed plan that my submission
relates to are:

Policy 13, page 27. As written the part of the policy that restricts use and transport
of heavy fuel oil would prohibit carrying and using heavy fuel oil in small quantities
for the purpose of equipment lubrication (i.e. winches and cranes etc). The policy
should be amended to reflect the MARPOL restriction on heavy fuel oil due to come
into force in August 2011.

Support/Oppose

Support

Reasons
This is unnecessarily restrictive. The policy should be amended to reflect the
MARPOL restriction on heavy fuel oil due to come into force in August 2011.

Decision
I seek the following decision from Minister of Conservation:
Amend policy 13 so that it reads as follows: To prohibit carrying heavy fuel oil as a
cargo, carrying and using heavy fuel oil as a fuel, and ship-to-ship transfers of any
fuel type in the coastal marine areas of the Kermadec and Subantarctic Islands.

3. The specific provisions of the proposed plan that my submission
relates to are:

Policy 19 page 28.
The Policy excludes other scientific monitoring such as acoustic monitoring for
whales that is beneficial i.e. not by whalers.

Support/Oppose

Support
Reasons

The amendment would make this policy consistent with Rule 3 and would provide for other types of research.

Decision

I seek the following decision from Minister of Conservation:
Reword Policy 19 to read:
To avoid the placement of new structures on the foreshore or seabed, unless they are necessary for the maintenance of existing infrastructure and/or for monitoring of seismic or volcanic activity or for other scientific monitoring

4. The specific provisions of the proposed plan that my submission relates to are:

Policy 41 e), page 32.
The Policy wording is unclear - what sort of operating facility is the policy referring to?

Support/Oppose

Support

Reasons

The Policy wording is unclear.

Decision

I seek the following decision from Minister of Conservation:
Reword Policy 41 (e) to read: 'or enhance the efficient operation of any existing operational facility'

5. The specific provisions of the proposed plan that my submission relates to are:

Rule 1, page 34.
The fourth condition of rule 1 The mooring will not be located within any heritage site as listed in Appendix 2. This is an issue because not all the locations of the heritage sites noted in appendix 2 are known. Further, the proposed plan does not contain maps showing the locations or approximate locations of any of the heritage sites listed in Appendix 2. The known Heritage Sites should be mapped. Dots or areas shaded could be placed on maps in Appendix 1 or prepare new maps. Secondly some sites have not been accurately mapped so a larger area than for example the actual ship wreck site should be shown.
Support/Oppose

Support

Reasons
The rule needs to be amended to allow for fact that the exact location of the heritage sites is not always known, in order for the rule to be able to be implemented.

Decision
I seek the following decision from Minister of Conservation:
The fourth condition of Rule 1 should be amended as follows:
"The mooring will not be located within in the vicinity of any of known (mapped) heritage sites listed in Appendix 2 and shown on maps XX"

6. The specific provisions of the proposed plan that my submission relates to are:

Rule 8, page 36. This rule provides for the safe mooring for Mr Stuart Cave for the purpose of obtaining crayfish at Snares Island as a permitted activity but no provisions has been made to allow Mr Cave permitted access inside 300 metres from MHWS.

Support/Oppose
Support

Reasons
Given that the temporary mooring is provided for as a permitted activity, access by Mr Cave to use it should also be provided for as a permitted activity.

Decision
I seek the following decision from Minister of Conservation:
A new rule should be included in the surface water access rules that provides permitted access for Mr Cave inside the 300 metre zone from MHWS, subject to similar conditions as rule 29.

7. The specific provisions of the proposed plan that my submission relates to are:

Rule 10, page 37. The activity description is incomplete and unclear. It should be amended to accurately reflect section 70 RMA.

Support/Oppose
Support
Reasons
The rule is unclear while the activity description is incomplete.

Decision
I seek the following decision from Minister of Conservation:
Reword the activity description of Rule 10 to read Discharge of uncontaminated water or stormwater into water or onto land the coastal marine area contaminated for result of natural entering-water

8. The specific provisions of the proposed plan that my submission relates to are:

Rule 12 page 38. This rule prohibits the discharge of untreated sewage and refers to policies 14 and 15. Policy 15 however, acknowledges a discharge of untreated sewage from Campbell Island, and seeks to allow this discharge to continue for a period of 5 years from the plan becoming operative while solutions to deal with it are investigated and implemented. An interim rule needs to be included to allow the intermittent discharge to continue for 5 years from the date the plan becomes operative.

Support/Oppose
Support

Reasons
Rule 12 does not provide for the continuation of this intermittent discharge. An interim rule needs to be included to allow for the discharge continue for 5 years from the date the plan becomes operative

Decision
I seek the following decision from Minister of Conservation:
Include a new rule after rule 11 to allow the current intermittent discharge of untreated sewage from the toilet on Campbell Island for a period of 5 years from the date the plan becomes operative as a permitted activity.

9. The specific provisions of the proposed plan that my submission relates to are:

Rule 21, page 41. The condition of this rule says: Not for the extraction of constituent of water. It needs to be made clear that this does not include the taking of sea water for conversion to freshwater for use on a vessel.

Support/Oppose
Support
Reasons
It is desirable to remove any ambiguities from the rule.

Decision
I seek the following decision from Minister of Conservation:
Reword the condition in rule 21 to read: Not for the extraction of constituent of water, other than for conversion to freshwater for use on a vessel.

10. The specific provisions of the proposed plan that my submission relates to are:

Rule 24, page 41. The activity described in the rule cannot be classified as a prohibited activity. In the case Nelson City Council v. Diamond Netherlands BV 2009 (CRN08042500436) Judge Dwyer found that hull cleaning activities are deemed to be discretionary activities in regional coastal plans by regulation 4 of the Resource Management Marine Pollution Regulations 1998.

Support/Oppose
Conditional support

Reasons
As written the rule is inconsistent with the Resource Management Marine Pollution Regulations 1998.

Decision
I seek the following decision from Minister of Conservation:
Change the classification from prohibited to discretionary and add a footnote to the activity description that refers to regulation 4(2)(f) of the Resource Management Marine Pollution Regulations 1998.

11. The specific provisions of the proposed plan that my submission relates to are:

Temporary Rule A, page 42. This rule is unclear and could result in vessels travelling from Hobart to Macquarie then to Auckland or Campbell Islands without providing the certification required that the hull has been inspected for hull and niche area fouling.
The condition that says: “or vessel has been to Antarctica since its last inspection and does not stay more than 48 hours in any location before returning to the islands” also needs to be clarified. What does “any location” mean?
Support/Oppose

Support

Reasons

It is important that the rule applies to all vessels visiting the islands. Hobart is potentially a high risk port as it has Pacific sea star and other invasive species. It is desirable to remove ambiguities in the rule.

Decision
I seek the following decision from Minister of Conservation:
Re-word the conditions of Rule A after the words “And either:” to read as follows:

And either:

- Vessel has certified clean hull and niche areas by diver inspection completed by a dive service provider approved by the Minister of Conservation, using the form included in Appendix 3, valid for 3 months from the date of the inspection, provided:
  - The vessel has not departed New Zealand waters since its last certified diver inspection; OR
  - The vessel has returned directly from Antarctica and complies with the other conditions of this rule; OR
  - If the vessel has visited Macquarie Island since inspection it has anchored or steamed off the coast of Macquarie for no more than 48 hours; remained 100 metres or more from permanent structures; and complies with the other conditions of this rule; OR
  - If the vessel has been to Antarctica since its last inspection and has not stayed more than 48 hours in any mainland New Zealand location before returning to the islands

12. The specific provisions of the proposed plan that my submission relates to are:

Rule 29, page 45. The rule is unclear should allow for management activities including research for the Department of Conservation.

Support/Oppose

Support

Reasons

It is desirable to remove any ambiguities from the rule.

Decision
I seek the following decision from Minister of Conservation:
Reword Rule 29 to read: Access to and anchoring in the coastal marine area of the Subantarctic Islands by vessels involved in management activities and research for the Department of Conservation including vessels of the New Zealand Navy.
13. The specific provisions of the proposed plan that my submission relates to are:

Rule 30, page 45. Rule 30 is superfluous. The delivering of fuel is covered by rule 29, as it is a management activity and for research.

Support/Oppose

Oppose

Reasons

The rule is superfluous since the activity is covered by Rule 29.

Decision

I seek the following decision from Minister of Conservation:

Remove rule 30 or include part of rule 30 into rule 29.

14. The specific provisions of the proposed plan that my submission relates to are:

Rule 31, page 45. Other authorisations may be required under the Reserves Act 1977

Support/Oppose

Support

Reasons

To be clear that for research activities that take place above MLWS authorisation under the Reserves Act 1977 will be necessary.

Decision

I seek the following decision from Minister of Conservation:

Rerword rule 31 standard and terms to read: Research is consistent with the New Zealand Subantarctic Islands Research Strategy 2003 and any other permits that may be required under the Reserves Act 1977.

15. The specific provisions of the proposed plan that my submission relates to are:

Rule A and all permitted activity rules between 26 to 58, pages 42-51.

In relation to the biosecurity condition that reads:
• *Vessel has been thoroughly checked for harmful organisms above the waterline and is free of harmful plants and animals (including insects)*

It is noted that rats can live above the waterline and also below the waterline such as within the hull of a vessel. The rule should ensure the inside of the vessel, including below the waterline, is also checked.

**Support/Oppose**

Support

**Reasons**

The risk of a biosecurity breach is a key issue for this plan and need to be carefully managed.

**Decision**

I seek the following decision from Minister of Conservation:

Reword the condition concerning biosecurity of the dry parts of the vessel in Rule A and all permitted activity rules between 26 to 58, pages 42-51 to read: *The vessel has been checked for harmful organisms above the waterline, inside and outside and within the hull and is free of harmful plants and animals (including insects).*

16. **The specific provisions of the proposed plan that my submission relates to are:**

**Rule 36**, page 47. The rule needs to provide that the unloading and re-loading of passengers occurs off the land locations listed. In relation to the Snares Island the locations listed the plan are too prescriptive.

**Support/Oppose**

Support

**Reasons**

The rule needs to be clear and free of ambiguity.

**Decision**

I seek the following decision from Minister of Conservation:

Reword the conditions of rule 36 to read: *Unloading and reloading of passengers off the following locations only: ...*”

In relation to the two Snares Island locations, remove reference to Ho Ho Bay and the Enclosed Bay and list the one location: *“North East Island, Snares Island”.*
17. The specific provisions of the proposed plan that my submission relates to are:

Rule 45, page 48. The condition that lists the anchoring locations for vessels under 25 metres in length incorrectly refers to: Musgrave Inlet (east coast) Auckland Island. It should refer to: Musgrave Harbour (in Carnley Harbour) Auckland Island.

Support/Oppose
Support

Reasons
The locations listed in the rule needs to be corrected to accurately describe the location as shown on Maps 1 and 4 in Appendix 1.

Decision
I seek the following decision from Minister of Conservation:
Correct the reference in rule 45 to refer to Musgrave Harbour (in Carnley Harbour) Auckland Island.

18. The specific provisions of the proposed plan that my submission relates to are:

Rule 46, page 49. The condition “No more than one cruise ship in a bay at any one time” is unclear. The condition listing the anchoring locations is missing four locations as shown on the maps in Appendix 1. Missing from the Auckland Islands locations are:
- Ranui Cove (east coast) Auckland Island
- Musgrave Inlet (east coast) Auckland Island
- Raynal Point (in Carnley Harbour) Auckland Island
- Coleridge Bay (in Carnley Harbour) Auckland Island

Support/Oppose
Support

Reasons
The locations listed in the rule needs to be corrected to accurately describe the location as shown on Maps 1 to 4 in Appendix 1.

Decision
I seek the following decision from Minister of Conservation:
Add the following missing anchorage sites to rule 46:
- Ranui Cove (east coast) Auckland Island
- Musgrave Inlet (east coast) Auckland Island
- Raynal Point (in Carnley Harbour) Auckland Island
Coleridge Bay (in Carnley Harbour) Auckland Island

And reword the last condition of rule 46 to read:
No more than one cruise ship in a bay or any harbour, or off the Snares Islands at any one time.

19. The specific provisions of the proposed plan that my submission relates to are:

Other matters, Administrative charges, page 52. The proposed plan says it will establish administrative charges via regulations under section 360 RMA. However, it would be a simpler option to charge administrative charges under the Conservation Act 1987.

Support/Oppose
Support

Reasons
Developing regulations is an involved process. The Conservation Act option is simpler.

Decision
I seek the following decision from Minister of Conservation:
Rerword the text under the heading Administrative charges to read:
Administrative charges will be charged under the Conservation Act 1987.

20. The specific provisions of the proposed plan that my submission relates to are:

Glossary, "Harmful organism", page 57. The definition should exclude species that have self-introduced.

Support/Oppose
Support

Reasons
Desirable for the definition to be comprehensive.

Decision
I seek the following decision from Minister of Conservation:
Add the words "excluding self-introduced species to the definition of "Harmful organisms"
21. **The specific provisions of the proposed plan that my submission relates to are:**

**Appendix 1 Maps 1, 2 and 3**, pages 62 to 64. The vessel length for anchoring at Ranui Cove should be 75 metres.

**Support/Oppose**

Support

**Reasons**

This is a typographical error – it was always intended to be 75 metres.

**Decision**

**I seek the following decision from Minister of Conservation:**

On Maps 1, 2 and 3, pages 62 to 64, the vessel length for anchoring at Ranui Cove should be changed to 75 metres.

22. **The specific provisions of the proposed plan that my submission relates to are:**

**Appendix 1 Map 3**, page 64. The legend box for the *Port Ross southern right whale exclusion zone* should cross reference to rule 32. The text in the box should also clarify that the area is restricted to vessels under 75 metres i.e. vessels over 75 metres do not have access in the period 1 April to 31 October, as noted in rule 32.

**Support/Oppose**

Support

**Reasons**

The legend box is ambiguous as written and should be clarified.

**Decision**

**I seek the following decision from Minister of Conservation:**

Amend the legend box for the *Port Ross southern right whale exclusion zone* to cross reference to rule 32 and change the text in the box to say:

*Access to the area is restricted to vessels under 75 metres.*
23. The specific provisions of the proposed plan that my submission relates to are:

Appendix 1 Map 7, page 68. The legend box for the *Snares Island exemption zone* should cross reference to rule 34.

Support/Oppose

Support

Reasons

It is useful for plan users and assists with implementation of the rules to provide relevant cross references.

Decision

I seek the following decision from Minister of Conservation:

Amend the legend box for the *Snares Island exemption zone* to cross reference to rule 34 and change the text in the box to say:

*Access for cruise ships using any fuel type subject to the conditions of rule 34.*

24. The specific provisions of the proposed plan that my submission relates to are:

Appendix 2 Cultural and Historic Heritage, page 72. Many rules in the plan refer to this Appendix. The approximate sites need to be mapped so the permitted activity rules can be given effect to.

Support/Oppose

Support

Reasons

The approximate locations need to be known to given effect to the permitted activity rules.

Decision

I seek the following decision from Minister of Conservation:

Maps be included or amended to show approximate locations of cultural and historic heritage.
I do not wish to be heard in support of my submission (This means you have elected not to speak at the hearing)

Signature ........................................... Date ................................

Guy Kerrison  
Manager Planning Unit, Policy Group

On delegated authority of Hon Kate Wilkinson  
Minister of Conservation