

# Marine Mammal Permit Amendment Recommendation and Decision Report

**Applicant:** Internally Triggered Amendment

**Permission number:** 108841-OTH

**Application Type:** Review of Marine Mammal Viewing within Akaroa Harbour

**To:** Henry Weston, Deputy Director-General Regional Operations

**From:** Andy Thompson, Operations Manager Mahaanui

**Date sent:** 9 September 2025

**Team:** Michelle Lambert, Ranger Project Lead Community Mahaanui  
Max Clark, Permissions Advisor  
Tom MacTavish, Ranger Marine Reserves Akaroa  
Olivia Eaton, Senior Solicitor  
Dave Lundquist, Senior Science Advisor

## Executive Summary - Whakarāpopoto ā kaiwhakahaere

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### **This process has been internally triggered by the District**

1. The Mahaanui District Office has triggered an internal amendment process under Regulation 13(2) of the Marine Mammals Protection Regulations 1992 for all marine mammal viewing Permits based out of Akaroa Harbour. This was prompted by the latest research findings on Hector's dolphins locally.
2. There are currently 6 commercial operators who hold marine mammal viewing Permits in the area ("the operators").

### **Hector's dolphins are already seriously impacted by vessels**

1. Hector's dolphins are classified as Threatened - Nationally Vulnerable. This means they are facing a high risk of extinction in the medium term. Banks Peninsula, and specifically Akaroa Harbour, is a nationally important population stronghold.
2. The number of vessel interactions within the last 15 years has pushed Hector's dolphins from the middle harbour to the outer harbour.

3. This is concerning, given that the middle of Akaroa Harbour has been a seasonal Hector's dolphin hotspot over the 40 years of dolphin research since the 1980s.

4. This displacement of dolphins in their core habitat has potential effects on both the dolphin population and the businesses that rely on them.

### **The latest research supports a decrease in permit trip numbers**

5. [Recent research](#) in Akaroa indicates that commercial dolphin viewing trips

- should not exceed a cumulative maximum of 20 trips per day across all operators, and
- ideally would not exceed 12 trips per day.

6. The allocated Permitted trips within Akaroa Harbour consistently exceeds 20 trips per day across all operators over the summer months.

7. Hector's dolphins primarily use the Harbour in summer months, and therefore this period is a priority to manage.

### **The Director-General has authority to amend Permits**

8. The proposed amendment process is considered under [Regulation 13\(2\)](#) of the Marine Mammals Protection Regulations 1992 ("the Regulations" or "MMPR").

9. Amendments can be approved if the Director-General believes on reasonable grounds that is necessary for the protection, conservation, or management of any marine mammals.

### **Statutory and non-statutory documents support this approach**

10. The [Canterbury \(Waitaha\) Conservation Management Strategy](#) directs a precautionary approach to commercial viewing of Hector's dolphins.

11. The vision of the [Hector's and Māui Dolphin Threat Management Plan](#) (co-led by Fisheries New Zealand) is to ensure these dolphins are resilient and thriving throughout their natural range.

### **Realising future business growth for operators**

12. Economic considerations are not a mandatory consideration factor to include in decision making under the Marine Mammals Protection Regulations 1992. Instead, this information is provided for additional context.

13. The Department aims to support responsible ecotourism in Akaroa Harbour, with permit levels consistent with the CMS outcome to achieve: "The Hector's dolphin / tūpouou

population is rebuilding, assisted by... research-based controls and education on viewing or contacting marine mammals.”<sup>1</sup>

14. We consider the proposed permit amendments do not prevent business growth, as this can be achieved in a variety of ways. There remains opportunity for daily dolphin view/swim trips to grow outside of the busiest days and/or months. Had the new permit levels been in place between 1 July 2023 and 30 June 2024, we estimate about 50 % of the total allocation in the Akaroa Harbour Operational Area would have remained unused.

15. Operators may also consider wider measures to achieve further growth. For example, growing vessel sizes to increase the number of passengers carried (especially combined with other dolphin-impact mitigations like reduced sound emissions), adding value to permitted trips, or offering further interactive educational experiences on shore.

### **Operators have been consulted about the changes**

16. Written and verbal feedback collected from the operators has been considered as part of the decision-making process. This has informed the trip numbers as proposed in this report.

### **Treaty Partner permit holder**

During the engagement process, feedback from the Crown’s Treaty Partner was sought. They supported the process and are comfortable with the overall purpose of the proposed amendments.

### **Transparency is recommended about the final Decision**

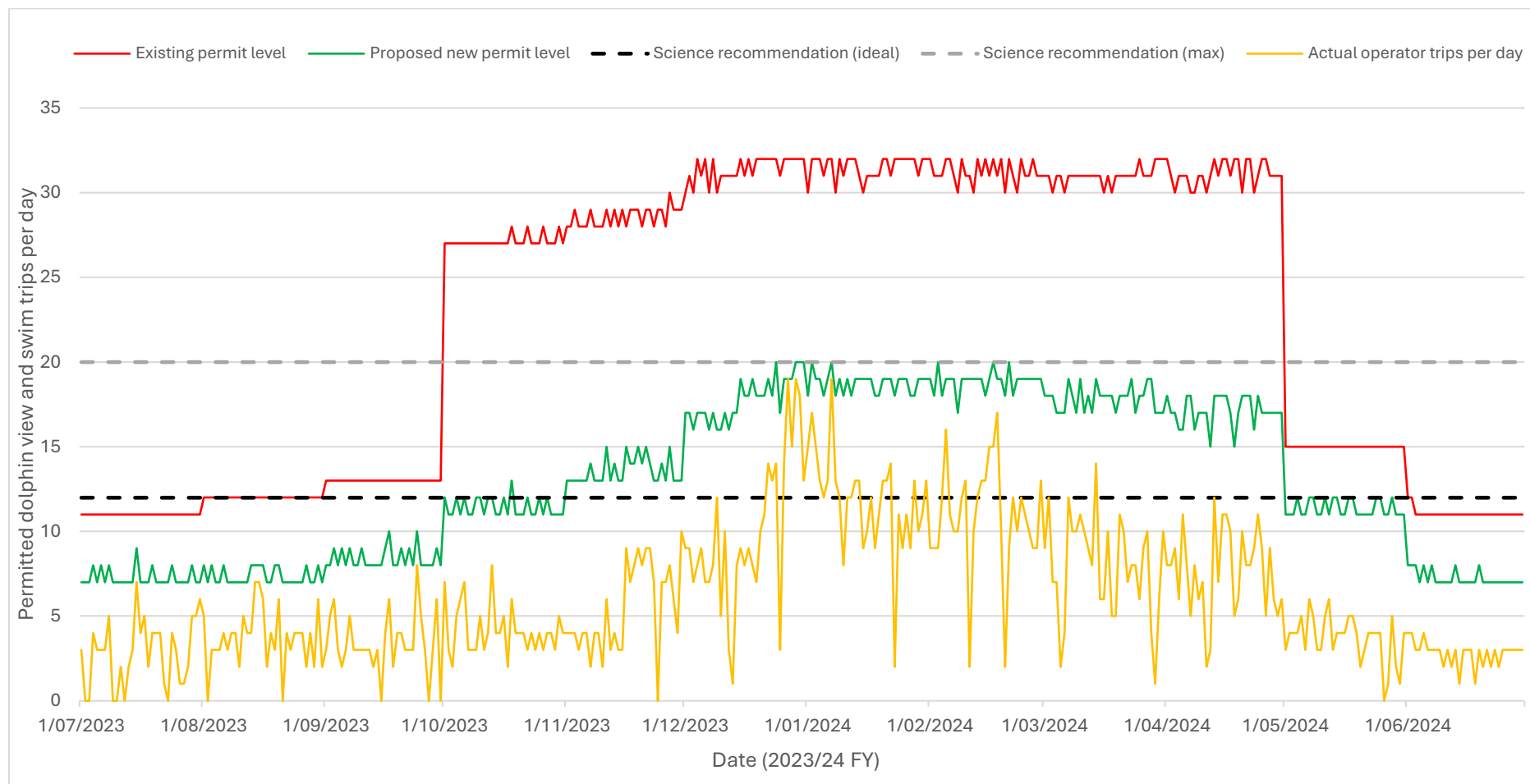
17. After a decision has been made, we recommend that a cumulative overview of the proposed amendments to trip allocations across all permitted marine mammal operations in Akaroa Harbour is proactively released to all relevant operators.

18. This will address a common concern from operators that their business would be disproportionately impacted by the trip reductions.

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<sup>1</sup> Canterbury (Waitaha) Conservation Management Strategy 2016 (page 125)

**It is recommended that you approve the following scenario**



19. **Figure 1.** Red line: current allocated permit trips for all operators across a financial year. Green line: proposed allocated permit trips. Yellow line: the cumulative number of trips that operators carried out during the 2023/24 financial year (from vessel tracking data). Research recommends a maximum of 20 trips per day (grey dotted line), and an ideal scenario of less than 12 trips per day (**black dotted line**).



20. The principles underpinning these proposed trip numbers are:
- no more than 20 trips per day, with half of the days not exceeding 12 trips per day,
  - giving effect to the principles of the Treaty of Waitangi,
  - natural justice, and
  - no changes allowing an operator to expand beyond their current trip numbers for any given day/month.
21. Under this scenario, all operators that retain Akaroa Harbour as part of their operational area will also retain a market share that is within 3.5 percentage points of their existing share.
22. It is recommended that you approve this scenario. A table in Appendix 3 sets out the resulting proposed trip numbers for each operator.

**The Permits have been amended, and require your sign off**

23. Any proposed changes to Permits will come into effect on 1 October 2025. This means the new changes will be in place for the 2025/2026 summer season.
24. Amended Permits:
- 79879-MAR: [DOC-10361481](#) (Pohatu Penguins Ltd)
  - 84883-MAR: [DOC-10361475](#) (Akaroa Dolphins Ltd)
  - 84892-MAR: [DOC-10361478](#) (Hamilton, Gehrig and Ecoseaker Ltd)
  - 84934-MAR: [DOC-10361476](#) (Black Cat Group (2007) Ltd)
  - 84936-MAR: [DOC-10361477](#) (Fox 2 Sailing Adventures Ltd)
  - 86235-MAR: [DOC-10361480](#) (Ōnuku Rūnanga Incorporated Society)

**We are committed to well-informed, adaptive management strategies in Akaroa Harbour**

25. These recommendations are informed by the best available trip information and research evidence.
26. Our knowledge is always developing, and we expect any future management decisions to be informed by future research outcomes.

**I recommend that you..... (Ngā tohutohu)**

	<b>Pursuant to the Marine Mammal Protection Regulations</b>	<b>Decision</b>
<b>a)</b>	<b>Approve</b> the Amendments to the Operators' Permits based on the above scenario and listed in Appendix 3.  Subject to the standard Regulations Permit conditions.	<b>Yes</b>
<b>b)</b>	<b>Approve</b> the proactive release of this RDR and appendices to all affected operators, and on the DOC website with some redactions.	<b>Yes</b>
<b>c)</b>	<b>Sign off</b> on the Amended Permits.	<b>Signed</b>

**Decision Maker Rationale:**

I have read all the supporting material. I consider amendments to permits under regulation 13(2) of the MMPR are necessary for the protection, conservation and management of Hector's dolphins. The key factors for me are:

- Section 3A of the MMPA requires DOC to administer and manage marine mammals in accordance the relevant Conservation Management Strategy. The Conservation Management Strategy directs taking a precautionary approach towards authorising interaction with Hector's dolphins.
- Research undertaken is clear that displacement of Hector's dolphins from the middle of the harbour to the outer parts has been happening and that this could have a range of consequences on the dolphins (predation, storm impacts, behavioural) that are not necessarily well understood.
- The research concluded that the most likely explanation for the displacement was direct/indirect pressure associated with cruise ships and other vessels. It recommended that commercial dolphin viewing/swimming trips should not exceed a cumulative maximum of 20 trips per day across all operators in Akaroa Harbour, with an ideal maximum of 12 trips per day. Ensuring that the maximum number of trips is not exceeded in a day is a precautionary and sensible approach to the management of a threatened species that is facing a high risk of extinction in the medium term.
- Section 4 of the Conservation Act requires the Department to give effect to the principles of the Treaty of Waitangi in its administration and interpretation of the Act. The principles of partnership and informed decision making have been

implemented. I am aware that Ōnuku Rūnanga have been supportive of the process and of the broad aim to reduce the number of trips that are permitted.

Although outside the statutory decision-making considerations, I noted that the practical impact on concessionaires is likely to be relatively minor (primarily removal of unused allocations of permitted trips), that market shares of operators will remain similar, and that there are options for operators over time (such as larger boats fewer trips).

I understand the process of engagement with operators and consideration of their feedback was fair and robust. I also noted it is just one year before the permits expire and operators will need to apply for new permits at that time.

A handwritten signature in blue ink, appearing to read 'H. Weston', is shown on a light-colored background.

Henry Weston, Deputy Director-General Regional Operations

Date: 17 September 2025

Pursuant to the Delegation dated 9 September 2017 and 7 July 2019

(Marine Mammal Protection Regulations Delegations: [DOC-2583767](#))

## **Purpose - Te aronga**

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27. The purpose of this report is to bring together the relevant information and recommendations to support you to make a statutory decision regarding proposed changes to Marine Mammal Viewing Permits, pursuant to Regulation 13(2) of the Marine Mammals Protection Regulations 1992.

28. These changes are considered necessary for the protection, conservation and management of the Threatened (Nationally Vulnerable) Hector's dolphins.

## **Context - Te horopaki**

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### **Hector's dolphins are Nationally Vulnerable**

29. Hector's dolphins are classified as Threatened - Nationally Vulnerable. This means that they are facing a high risk of extinction in medium term.

30. There is a current estimated population of approximately 15,000 individuals. They are endemic (i.e., only found in New Zealand waters).

31. The Department co-leads the Hector's and Māui Dolphin Threat Management Plan (TMP) with Fisheries New Zealand. The TMP's vision is that these dolphins are resilient and thriving throughout their natural range. The TMP recognises potential tourism impacts, which are to be managed through permit conditions.

### **Unique values of Akaroa Harbour**

32. Banks Peninsula, and specifically Akaroa Harbour, is a nationally important population stronghold for Hector's dolphins.

33. It is thought to be one of the few places globally where dolphin encounters in a sheltered harbour remain a virtual certainty.

34. The near-constant presence of Hector's dolphins in the Akaroa Harbour makes them an integral part of the harbour ecosystem. Furthermore, it underpins the socially and economically significant marine mammal tourism industry.

35. Akaroa Harbour's marine ecosystem has significant cultural, economic and ecological values. The harbour provides cultural and provisioning ecosystem services such as swimming, aquaculture, sight-seeing, mahinga kai practises, and fishing.

36. The harbour is a taiāpure (customary management area) and the gazettal of Akaroa Marine Reserve (2014) further recognises its scenic, scientific, and natural history values. The harbour is geographically central to the Banks Peninsula Marine Mammal Sanctuary.



## **Commercial value of Hector's dolphin tourism**

37. Economic considerations are not a mandatory consideration to include in decision making under the Marine Mammals Protection Regulations 1992. Instead, this information is provided for context.

38. As estimated from an [ME Consulting report](#), commissioned by Black Cat Cruises, the economic impact of Hector's dolphin ecotourism is between \$27.9 - \$31.3 million per annum within the New Zealand economy.

39. Almost 90% of customer respondents surveyed from Black Cat Cruises tours rated Hector's dolphin sightings as 'very important' to their decision to undertake the tour.

## **Local Marine Mammal tourism permit moratorium**

40. Between 2008-2012, a moratorium was put in place over Akaroa Harbour ([Gazette Notice](#)) to prevent new commercial operations for viewing or swimming with Hector's dolphins.

41. Since 2016, there has been another marine mammal moratorium placed over Akaroa Harbour ([Gazette Notice](#)). It prevents any new commercial operations for viewing or swimming with any marine mammals. It is currently in place until 2026.

42. Research and taking management actions informed by research is an important part of informing decisions around the obligations of the moratorium.

43. In 2022, a decision was made to renew all 6 commercial marine mammal permits in the area at the time ([DOC-6320599](#)). In the interests of consistency with the moratorium, the current Permits were issued to expire on 30th September 2026.

44. At that time, technical advice on the renewal stated that:

- It is well-established that commercial viewing/swimming operations can alter the behaviour and/or habitat use of dolphins and other marine mammals. The situation at Akaroa has been studied multiple times in the past and confirmed that these effects occur with Hector's dolphins.

45. And that:

- Management decisions have been made in the past to limit the significance of these effects, i.e. limiting the number of permits, intensity of tour effort, length of interactions, and so forth. No specific new information is available at this time to assess whether these limitations are sufficient, but they are assumed to mitigate impacts to ensure no significant adverse effects are occurring. Various

research and monitoring plans are being undertaken at present to ensure more information is available at the end of the current moratorium period.

### **Latest research results**

46. Research by the University of Otago (published December 2024) has been funded by Operator cost recovery fees, collected under Section 60D of the Conservation Act. The Department worked with the researchers to ensure the operators were regularly updated throughout the contract period and the operators supported the research with their regular feedback<sup>2</sup>.

47. The collaborative role that Operators have played in helping progress this significant research should be acknowledged in communications regarding this process.

48. The research provided an update on the status of the wider Hector's dolphin population. The research indicates the wider Banks Peninsula Hector's dolphin population has shifted from likely declining to likely stable in response to the creation of the marine mammal sanctuary and associated fishing restrictions. These findings are cautiously positive but also underscore there is no room for complacency.

49. The research also built on existing knowledge to investigate the effects of vessel traffic of all types (cruise ships, commercial dolphin tourism vessels, and recreational vessels) on Hector's dolphins in Akaroa Harbour.

50. The research showed a long-term shift in Hector's dolphins' use of Akaroa Harbour. In 2012, the core use area shifted from the middle to the outer harbour where it has remained since. The shift correlated with a rapid expansion in cruise ships anchoring in the middle of the harbour.

51. Short-term acoustic monitoring showed that vessel traffic of all types displaced Hector's dolphins from preferred habitat within Akaroa Harbour in summer 2019/20. Acoustic monitoring at a key Hector's dolphin hotspot in the Harbour showed there were decreased dolphin detections in relation to:

- high levels of daily dolphin tours,
- the presence of cruise ships, and
- higher levels of motor vessel traffic generally (excluding dolphin tours).

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<sup>2</sup> Rayment, W.J.; Bennington, S.; Carome, W.; Dillingham, P.; Slooten, E.; Wickman, L.; Dawson, S.M. 2024: Long- and short-term impacts of vessels on Hector's dolphins at Te Pātaka-o-Rākaihautū / Banks Peninsula. DOC Research and Development Series 372. Wellington: Department of Conservation.

52. These shifts in distribution are concerning given the middle of the Akaroa Harbour has been a seasonal Hector's dolphin hotspot for as long as they've been studied (40+ years). Displacement of dolphins from their preferred habitat may have a wide range of consequences, including reduced ability to undertake important behaviours (e.g. foraging or resting), exposure to predators or storm events, and so forth.

53. The research concluded the simplest and most likely explanation for the dolphins' shift was the direct and indirect pressures associated with the cruise ships and other vessels stating: "given the evidence that Hector's dolphins are displaced from core habitat by vessel traffic, we suggest immediate management to reduce the vessel pressure on dolphins in Akaroa Harbour".

54. The researchers made several recommendations on how to reduce vessel pressure.

55. Some recommendations, such as limiting cruise ships and creating speed restriction zones, involve other agencies and stakeholders, and are being explored in processes separate to this permit review.

56. The most important recommendation for the purposes of this decision document is that commercial dolphin viewing/swimming trips should not exceed a cumulative maximum of 20 trips per day across all operators in Akaroa Harbour, with an ideal maximum of 12 trips per day.

57. The Department recommends it is consistent with the purpose of protection and conservation of the dolphins to adjust permits to:

- implement the upper limit of no more than 20 trips per day.

58. This is consistent with Canterbury (Waitaha) Conservation Management Strategy policy for precautionary management and the outcome of setting permitted interactions at a level tolerable for the mammals.

### **Initial proposed changes to allocated trips**

59. We used trip data collected from the onboard trackers (i.e. activity returns) for the pre-COVID 2019/2020 period and from the most recent 2023/2024 year as well as data directly from operators (when received) to inform proposed changes.<sup>3</sup>

60. The initial proposed changes were focussed on making reductions to allocations of permitted trips where there were un-used trips, particularly for off-season months.

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<sup>3</sup> At the time that the modelling/analyses of trip levels for these recommendations began, the 2023/24 data was the most recently available, full-year information that was available. Trip data for 2024/25 will likely not be ready for analysis until the end of November 2025.

61. Consideration was given to the overall and individual balance of different trip types e.g. swimming vs. viewing, and what we know of their relative impacts.

62. Consideration was also given to the spatial distribution of Permits/trips, to help balance the effects of these changes across all operators.

### **Operator feedback**

63. To ensure the process complied with principles of natural justice, feedback was formally sought in December 2024 from all operators impacted by the proposed Amendments (letter template: DOC-7720360). This letter included:

- Legislative and research context for this process;
- Proposed changes to the operators' Permit;
- Next steps in the process; and
- An offer to meet to discuss the proposed changes.

64. The feedback from operators has been summarised and analysed in a report, attached in Appendix 1. This identifies which feedback is considered relevant for the proposed amendments.

### **Treaty Partner Relationships**

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#### **Summary of Treaty partner engagement - Ōnuku Rūnanga**

65. Ōnuku Rūnanga were engaged and provided feedback both written and in person throughout the process.

66. Ōnuku Rūnanga and DOC met in person on 27 October 2023, to discuss the research findings and possible next management steps. The Ōnuku Chair was supportive of the overall process that DOC was following in order to develop the proposed amendments.

67. The Rūnanga Chair provided feedback on behalf of Ōnuku via email agreeing there should be a reduction in the overall allocation of marine mammal trips in Akaroa Harbour. The Rūnanga did request other amendments for their permit. However, we deem these requests outside the scope of this current amendment process. We will continue to work in partnership with Ōnuku to work towards an outcome.

68. Ōnuku Rūnanga Incorporated are comfortable with the broad aim to reduce the total number of trips that can occur in the Harbour.

## **Section 4: Giving effect to the Principles of The Treaty of Waitangi - Ngā mātāpono Tiriti**

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69. The Department is required to give effect to the principles of the Treaty of Waitangi.<sup>4</sup>

70. Four Treaty principles have been identified as most relevant to the work of Te Papa Atawhai: Partnership, Informed Decision-Making, Active Protection, and Redress and Reconciliation.

### *Partnership and Informed Decision Making*

71. The Mahaanui District has on-going relationships with all local Treaty partners, including trigger documents that describe whether consultation is required. The most relevant Rūnanga to engage with on this permit amendment process is Ōnuku. Their takiwā is centred on Akaroa Harbour, and they exercise kaitiakitanga over it. Ōnuku Rūnanga Incorporated Society holds 86235-MAR.

72. Accordingly, Ōnuku has a fundamental leadership role in the management of Akaroa Harbour and the Department actively partner with them on marine management matters.

73. The District Office has kept Ōnuku abreast of the amendment process. The summary of feedback above ensures the decision maker can make an informed decision.

74. Other papatipu Rūnanga that have takiwā associated with parts of Te Pātaka o Rākaihautū/Banks Peninsula include Koukourārata, Ngāti Wheke, Wairewa, and Taumutu. They have been engaged through the process of marine mammal permit processes and moratoria establishment within the Harbour in the past, but do not have permits and have not expressed any interest in establishing commercial Hector's dolphin viewing within Akaroa Harbour.

75. It is therefore considered that further engagement with these groups on the existing permits is not necessary. However, the Department will re-consider wider Rūnanga engagement before any moratorium decision in 2026.

### *Active Protection*

76. The feedback from the Ōnuku Rūnanga as the key Treaty partner has been considered in these recommendations, to ensure their interests are actively protected. The District Office has kept Ōnuku Rūnanga abreast of the amendment process and provided ongoing

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<sup>4</sup> The application of section 4 Conservation Act 1987 to other legislation in Schedule 1 of the Conservation Act (and therefore the Marine Mammals Protection Act 1978 and related regulations) was established in *Ngai Tahu Māori Trust Board v Director-General of Conservation* [1995] 3 NZLR 533 ("Whales case").

opportunities for incorporating the feedback of: a) the Rūnanga directly, and, b) the business operator for 86235-MAR.

#### *Preference and economic issues*

77. Under the *Ngāi Tai ki Tamaki* case<sup>5</sup>, the Supreme Court has stated that section 4 and the principle of active protection may require a degree of preference for iwi/hapu in relation to concession opportunities over land where they have mana whenua and their economic interests are a relevant consideration to the assessment. This can be applied to Marine Mammals Protection Act decisions as well, see footnote 4.

78. Such an assessment is fact-specific. The current process is an amendment process to an existing suite of permits. This limits the applicability of considerations of preference and economic issues.

79. Here, Ōnuku Rūnanga are kaitiaki over the Harbour and an existing permit holder. During engagement Ōnuku, and their operator, have indicated they are comfortable with the proposed amendments to their permit.

80. s9(2)(ba)(i), s9(2)(b)(ii)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

81. For completeness, we also note the conservation process participation requirements in Marine and Coastal Area (Takutai Moana) Act 2011 do not apply to this amendment process, as it is not a new application<sup>6</sup>.

#### *Redress and Reconciliation*

82. Redress and reconciliation may be considered to have been achieved through the Ngāi Tahu Claims Settlement Act 1998 (NTCSA).

83. It is noted that the NTCSA specifically describes the historic connection of Ngāi Tahu to Akaroa Harbour.

#### *Summary*

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<sup>5</sup> *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122

<sup>6</sup> Section 47(3)(e) Marine and Coastal Area (Takutai Moana) Act 2011

84. It is the Department's view that in this instance, the manner in which the Department has considered tangata whenua meets section 4 of the Conservation Act and has given effect to the principles of Te Tiriti o Waitangi.

## **Technical Advice**

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### *General context on management of Hector's dolphins*

85. Hector's dolphins are classified as Threatened - Nationally Vulnerable. This means they are facing a high risk of extinction in the medium term.

86. Banks Peninsula is a nationally important population stronghold, with a high density of dolphins centred around Akaroa Harbour.

87. Threats to Hector's dolphins are managed at a national level under the Hector's and Maui dolphin Threat Management Plan (TMP), jointly administered by DOC and Fisheries New Zealand.

88. Under the TMP, Fisheries New Zealand leads on management of fisheries bycatch and DOC leads on all non-fishing threats.

89. The vision of the TMP is to ensure these dolphins are resilient and thriving throughout their natural range. The population outcome sought by the TMP is that impacts are managed sufficiently to allow the population to increase to a level at or above 90% of the maximum number of dolphins the environment can support.

90. In effect, reaching this outcome requires DOC and Fisheries New Zealand to minimise threats as far as practicable.

### *Historic research findings on impacts of vessel interactions*

91. Effects of tourism on Hector's dolphins at Akaroa have been studied multiple times in the past and confirmed that behavioural and habitat use changes occur as a result of vessel interactions.

92. Links to research summaries, management decisions and associated documents related to Akaroa tourism were compiled in 2016 ([DOC-2915810](#)). These include a 2011 DOC Technical Series publication describing marine mammal tourism in Canterbury, including for species other than Hector's dolphin ([DOCDM-749370](#)) and the 2016 technical review of effects ([DOC-2769244](#)).

93. Martinez et al. (2010) showed vessels significantly affected the activity budget of Hector's dolphins at Akaroa overall and with respect to certain behaviours including:

- decreased travelling and increased milling in the presence of vessels and swimmers;
- decreased diving/foraging in the presence of vessels;
- increased diving with larger (>5) groups of swimmers.

94. A large proportion of the dolphin's daylight activity is spent either diving/foraging (20-25%) or travelling (50%). Travelling will include travelling to another area to feed or to find shelter/refuge. Both travelling and foraging are key behaviours and any disruption of these activities will have flow-on effects for dolphin welfare.

95. There was an observed difference in behavioural budget between dolphin viewing and dolphin swimming interactions, likely due to extended interactions with swimmers. Although arguably dolphins are "choosing" to remain with vessels/swimmers, the resulting increase in milling and socialising is at the expense of travelling and diving/foraging and carries unknown biological consequences.

96. Thus, while (at that time) there were no "alarm bells" such as large-scale displacement and aversion, there were numerous "warning signs" (i.e. changes to key behavioural states) that dolphin tourism between 2005-2008 was at (or over) its sustainable maximum in Akaroa.

#### *Recent research findings*

97. Research and monitoring was planned and undertaken between 2016 and 2024 to ensure more information was available at the end of the current moratorium period in 2026.

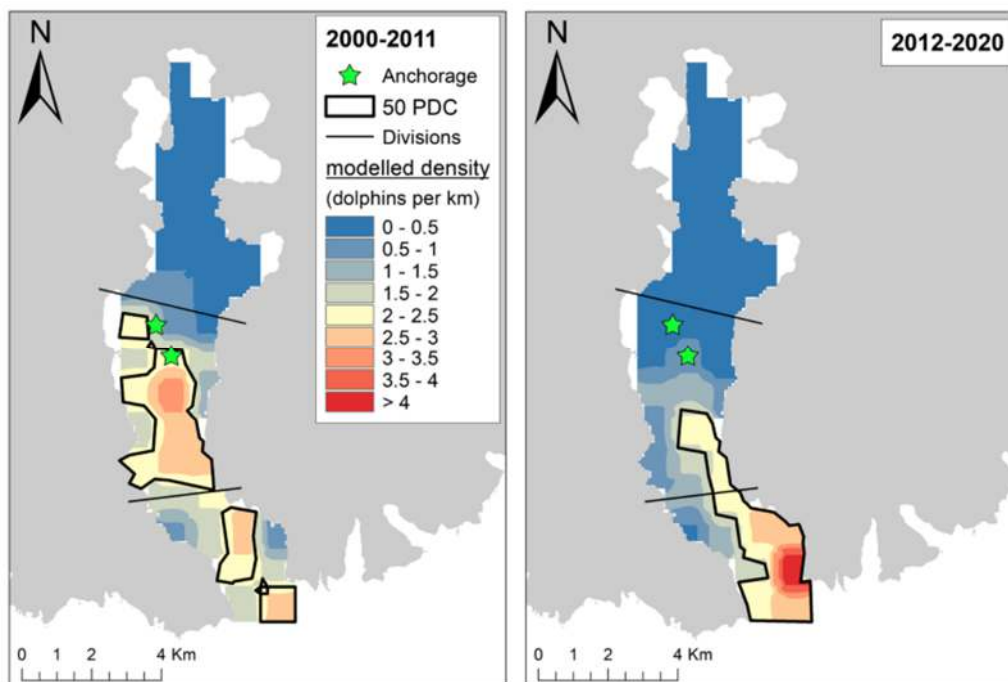
98. Main findings include:

- Mean survival rate of Hector's dolphins increased 2.2% between 1986-89 and 2009-19, concurrent with increased protections from commercial fishing and other threats.
- The total estimated abundance of Hector's dolphins in 2020 in the area between Birdlings Flat and Steep Head was 1,868 (95% HDI 988-3,154).
- Since 2000, 478 individual Hector's dolphins with unique marks (which make them recognisable) were identified in Bank's Peninsula's coastal waters. Of these Hector's dolphins, 46.9% (224) were seen in Akaroa Harbour at least once.
- The expansion of cruise ship tourism was concurrent with dolphins moving away from previous core habitat in the middle harbour (near the ship anchorages) towards the mouth of the harbour.



99. While some of these findings are cautiously positive with respect to the broader population status, there were findings of concern for Hector's dolphins in Akaroa, particularly related to the impacts of vessel interactions.

100. The research showed a long-term shift in Hector's dolphins' use of Akaroa Harbour. In 2011, their core use area shifted from the middle to the outer harbour and has remained there since.



**Figure 2.** Density estimates over summer (Dec-Feb) of Hector's dolphin sightings in Akaroa Harbour before/after the 2010-2011 Christchurch earthquakes. The positions of the two main Akaroa cruise ship anchorages (green stars) and the shift in dolphin distribution (as density of dolphins per km squared) as indicated by colour are shown. Earthquake damage to Lyttelton Port led to a four-fold increase of cruise ship visits in Akaroa.

101. The researchers concluded that Hector's dolphins are being displaced from core habitat by vessel traffic and immediate management to reduce the vessel pressure on dolphins in Akaroa Harbour is warranted.

102. Thus, the researchers made a set of recommendations related to their work:

- Dolphin tourism should be capped at a maximum of 20 trips per day across all operations in Akaroa Harbour, and ideally at 12 trips per day.
- Cruise ship visits should be limited to the levels before the 2011 earthquakes.

- Area-based restrictions should be imposed to reduce vessel pressure on dolphins.
- The educational and conservation aspects of dolphin tours should be assessed.
- The moratorium on dolphin focused permits should remain in place beyond 2026.

### *Conclusions*

103. Previous research established that Hector's dolphins significantly altered their behaviour in the presence of vessels. This was considered a warning sign of potential impacts, rather than a red flag.

104. More recent research has shown that dolphins have shifted away from a hotspot in the middle of Akaroa Harbour, likely due to the presence of cruise ships and associated tourism vessels. This shift in distribution is concerning, given the middle of the Akaroa Harbour has been a seasonal Hector's dolphin hotspot for as long as they've been studied (40+ years).

105. In my opinion, a substantial change in distribution is sufficient on its own to demonstrate the need for further management actions. In addition to this change in distribution, we have research which suggests thresholds for the number of tourism trips which are 'acceptable', i.e. do not result in significant behavioural impacts.

106. Therefore, we have both demonstrated substantial impacts and sufficient information to take direct action to reduce those impacts.

107. I believe it is in the best interests of the dolphins and the operators to adjust permits to:

- recognise the threshold limits recommended by the researchers; and
- generally work to minimise known impacts, including by advocating with the council and community.

108. This will protect the dolphins in this important habitat, help ensure the long-term sustainability of the local tourism industry, and is consistent with CMS guidance around precautionary management.

### **Statutory Analysis**

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#### **Regulation 13(2): Suspension, revocation, restriction, or amendment of permits**

Are there on reasonable grounds that it is necessary for the protection,	Yes
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conservation, or management of any marine mammal or marine mammals of any class to	
(a) suspend, revoke, or amend (in a manner not inconsistent with Part 3) any permit or permits: and/or	
(b) restrict in whole or in part the operation authorised by any permit or permits.	

#### Discussion:

109. As described above, in order to protect, conserve and manage Hector's dolphins, recent research in Akaroa indicates that commercial dolphin viewing trips should not exceed a cumulative maximum of 20 trips per day across all operators. Therefore, an amendment is necessary.

#### **Legislative purpose**

110. The purpose of the Marine Mammal Protection Regulations is to:

· “make provision for the protection, conservation and management of marine mammals, and, in particular -

a. to regulate human contact or behaviour [...] by commercial operators [...] in order to prevent adverse effects on and interference with marine mammals:

b. to prescribe appropriate behaviour by commercial operators and other persons seeking to come into contact with marine mammals.”<sup>7</sup>

111. To ‘prevent’ adverse effects could conceivably mean managing the adverse effects to zero. Alternatively, preventing adverse effects could also be achieved by managing activities sufficiently to result in no significant impacts on the animals. The latter interpretation is supported by the general rules for behaviour around marine mammals specified in the Marine Mammals Protection Regulations 1992, which allow for interactions between vessels and animals which may affect animals, but in a way which is not likely to be significant.

112. The recent research provides trip number recommendations which specify what is ‘preferable’ (up to 12 trips per day), ‘acceptable’, i.e. do not result in significant impacts (between 13 and 20) and ‘unacceptable’ (over 20). The research therefore supports: a) eliminating ‘unacceptable’ daily levels; and, b) increasing the proportion of days that restrict

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<sup>7</sup> Regulation 4, Marine Mammals Protection Regulations 1992.

cumulative maximums to the ‘preferable’ level of 12 trips per day, in order to minimise the likelihood of significant impacts on the animals. Under existing permit levels, cumulative trips per day are restricted to ‘preferable’ levels on only 92 days of the year (25%) and are able to reach ‘unacceptable’ levels on 213 days of the year. The proposed amendments remove any possibility of cumulative trips per day exceeding ‘unacceptable’ levels while also increase the number of days when they are restricted to ‘preferable’ levels to 183 days of the year (50%; see Appendix 2 for more statistical analyses).

## **Statutory Planning Documents**

### *Canterbury (Waitaha) Conservation Management Strategy 2016*

113. In the Canterbury (Waitaha) Conservation Management Strategy 2016 (CMS), Akaroa Harbour is acknowledged as the marine mammal interaction ‘hub’ for Canterbury. In the Coastal and Marine / Ki Tai Place part of the CMS (2.9), one of the Outcomes for Marine ecosystems and species states:

- Commercial operator numbers viewing and interacting with Hector’s dolphins, whales and other marine mammals are limited *to what is tolerable for the mammals*.

114. And Policy 2.9.4 of the CMS guides the Department to

- Issue permits, *applying a precautionary approach*, for viewing or interacting with Hector’s dolphin within Akaroa Harbour until, at least, research is completed to confirm an acceptable level of activity.

## **Relevant Non-Statutory Plans**

### *Hector’s and Māui Dolphin Threat Management Plan 2020*

115. The Department co-leads the Hector’s and Māui Dolphin Threat Management Plan (TMP) with Fisheries New Zealand. The TMP was developed in 2007 to provide an overarching framework that identifies human-induced threats to Hector’s and Māui dolphins, and strategies to mitigate those threats to ensure the dolphins’ long-term survival.

116. The [2020 version of the Plan](#) states that:

- Tourism is managed through permitting conditions applied under the Marine Mammals Protection Regulations 1992.

117. And that:

- DOC and Fisheries New Zealand have developed a [5-year research plan](#) to identify and resource new research, undertake monitoring to improve our understanding of the nature and extent of any poorly understood threats, and

ensure existing management measures are achieving the goals and objectives of the TMP.

· The research plan will be reviewed and updated annually.

118. It is considered that the proposed changes to Akaroa Permits are consistent with the purpose of the Plan, such that “these dolphins are resilient and thriving throughout their natural range.”

### **Conservation Board consultation**

119. The Mahaanui District Office notified the Canterbury Waitaha Conservation Board about this process in [December 2024](#).

120. The Conservation Board will be updated after a final decision has been made.

### **Statutory Analysis Summary**

121. It is considered that there are reasonable grounds to amend these Permits, and it is necessary for the protection, conservation and management of Hector’s dolphins, consistent with the relevant statutory planning documents and legislation.

## **Future management**

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### **Implementation of Permit amendments and future management**

122. An adaptive management approach is needed to ensure new knowledge continues to inform management decisions at permit renewal points.

123. The Department will continue already established initiatives to better understand how any impact of vessel traffic on Hector’s dolphins may be further mitigated through speed restrictions and different vessel technologies. Compliance operations will be co-ordinated with dolphin monitoring and targeted research such that the Department continues to work with partners and the operators to build knowledge of the dolphins and the impact of permit levels alongside other vessel traffic and dolphin threats in Akaroa Harbour.

124. The Moratorium is due for renewal in September 2026. The current permits align with the moratorium and will expire in September 2026.

125. DOC will continue to work with Environment Canterbury on cruise ship anchorage and traffic issues as well as the Coastal Plan.

126. DOC will continue to work with recreational vessels focusing on education, signage and our own vessel led patrols.

127. It should be noted that operators may also consider wider measures to achieve growth. For example, growing vessel sizes to increase the number of passengers carried (especially combined with other dolphin-impact mitigations like reduced sound emissions), adding value to permitted trips, or offering further interactive education experiences on shore.

### **Other local marine management mechanisms**

128. Within and adjacent to Akaroa Harbour are:

- Pōhatu Marine Reserve
- Akaroa Marine Reserve
- Banks Peninsula Marine Mammal Sanctuary

129. It may be considered appropriate to explore other reserves and sanctuaries in the future, in response to research and Hector's dolphins' population changes.

130. The Marine Reserves and Sanctuary do not directly impact marine mammal viewing Permits. Instead, these support the broader management of the local marine environment.

131. [Pōhatu Marine Reserve](#) was established as a Marine Reserve in 1999.

132. [Akaroa Marine Reserve](#) was established as a Marine Reserve in 2014.

133. The Marine Reserves Act 1971 defines how these are to be managed, including that:

- they shall be preserved as far as possible in their natural state
- the marine life of the reserves shall as far as possible be protected and preserved, and
- the value of the marine reserves as the natural habitat of marine life shall as far as possible be maintained

134. [Banks Peninsula Marine Mammal Sanctuary](#) was established in 1988.

135. Its purpose is to manage seabed mining and seismic surveying activities, which may threaten Hector's dolphins and other marine mammals.

### **Recommended Operating Conditions**

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136. **Term:** As set previously for the Permits (expiring on 30 September 2026)

137. **Standard and Special Conditions:** As set previously for the Permits

138. **Trip allocations:** as set out in Appendix 3 and the amended Permits.

139. **Fees:**

- **Processing Fee:** None charged, as this is an internally triggered process
- **Management Fee:** As set previously for Permits
- **Activity Fee:** No activity fees recovered for Marine Mammal Permits
- **Research Fee/Operator levies:** As set previously for the Permits

## **Appendices**

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### **Appendix 1**

Operator Feedback Report: [DOC-7878517](#)

### **Appendix 2**

Methods and statistics behind the final proposed marine mammal viewing/swimming permit amendments in Akaroa Harbour: [DOC-10405189](#)





### Appendix 3

Proposed changes across all Permits

Permit ID	Permit holder	Current permit	New permit
79879-MAR	Pōhātu Penguins	s9(2)(b)(ii)	
84883-MAR	Akaroa Dolphins		

		s9(2)(b)(ii)
84892-MAR	Hamilton, Gehrig and Ecoseaker	

84934-MAR	Black Cat	s9(2)(b)(ii)
84936-MAR	Fox 2 Sailing	

		s9(2)(b)(ii)
86235-MAR	Ōnuku Inc. Society	