SECTION 32 REPORT

Proposed Regional Coastal Plan: Kermadec and Subantarctic Islands

2025

Department of Conservation
Te Papa Atawhai

Te Kāwanatanga o Aotearoa
New Zealand Government

Cover:

Top photo:
Napier, Nugent, Meyer, Dayrell and Chanter islands seen from Raoul Island, Kermadec Islands.
Danica Stent, 23 May 2012

Bottom photo:
Yellow-eyed penguin, Enderby Island, Auckland Islands, New Zealand Subantarctic Islands.
Eric Wohler, February 2019

Department of Conservation
PO Box 10420
Manners Street
Wellington 6143
New Zealand

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Abbreviations

Abbreviation	Term
AFS	anti-fouling system
BFMP	Biofouling Management Plan
CRMS	Craft Risk Management Standards
DOC	Department of Conservation
ECan	Environment Canterbury
IMO	International Maritime Organization
MHWS	mean high water springs
MLWS	mean low water springs
Minister	Minister of Conservation
MLWS	mean low water springs
MPI	Ministry for Primary Industries
NZCPS	New Zealand Coastal Policy Statement
NZCPS 1994	New Zealand Coastal Policy Statement 1994
NZCPS 2010	New Zealand Coastal Policy Statement 2010
Operative Plan	Regional Coastal Plan: Kermadec and Subantarctic Islands 2017
Proposed Plan	Proposed Regional Coastal Plan: Kermadec and Subantarctic Islands 2025
RMA	Resource Management Act 1991

Part 1. Introduction

Purpose

This report provides a summary of the evaluation undertaken in accordance with section 32 of the Resource Management Act 1991 (RMA) for a plan change to the Regional Coastal Plan: Kermadec and Subantarctic Islands (the Operative Plan).[1] This report must be available for public inspection at the same time as the Proposed Regional Coastal Plan: Kermadec and Subantarctic Islands (the Proposed Plan Change) is notified.

To explain how the Plan Change was developed, this report:

- summarises the scope and the issues being addressed by the plan change and consultation process to date
- assesses the efficiency and effectiveness of the proposed changes
- assesses the benefits and costs of the anticipated environmental, economic, social, and cultural effects of implementing the Proposed Plan.

Scope

For the Kermadec Islands and the Subantarctic Islands, under the RMA, the Minister of Conservation (the Minister) has the same responsibilities, duties, and powers under the RMA that a regional council would have if the coastal marine areas of those islands were within the region of that regional council.[2] As part of those responsibilities, the Minister approved the Plan in 2017. Department of Conservation (DOC) officials are now progressing a plan change on behalf of the Minister (the Proposed Plan).

The changes in the Proposed Plan Change are narrow in scope and address specific matters – some of which the Minister was made aware of when approving the Operative Plan in 2017. The Plan was drafted in 2009–10 and notified in January 2011, followed by submissions, a public hearing and a lengthy five-year appeal period before becoming operative in September 2017. Since 2010, changes and developments have taken place in legislation, domestic and international policy, case law and technology, and the plan changes are proposed in light of these developments. The proposed changes also address risks to people, vessels and the environment that have come to light during implementation since 2011. Table 1 provides an overview of the proposed plan changes.

Table 1. Plan changes proposed for Regional Coastal Plan: Kermadec and Subantarctic Islands

Section of the Plan	Details of Proposed Plan Change
Issue description	Issue 1 description – change 'significant natural character' to 'outstanding natural character'
Policies	Amend Policy 13 to better manage risk from ancillary craft activities

[1] Department of Conservation. 2017. Regional Coastal Plan: Kermadec and Subantarctic Islands.
[2] Resource Management Act 1991, section 30(1)(d).

Rules	Amend the rules controlling hull and niche area fouling to improve management of the risk of introducing harmful aquatic organisms to the marine environment, with specific changes to: • Performance Standards 2.2 and 2.3 (in Table 1) • Appendix 4 • Appendix 5
	Manage the risks to safety of people and vessels and to tohorā / southern right whales in Port Ross in winter through: • adding a new restriction on access to Port Ross during the winter months (1 April to 31 October) to Rules 34, 37, 40–44 and 46 • changes to Performance Standard 5 (in Table 2) • adding a new Performance Standard 6 (in Table 2) • adding a new note (which will become Note 7) before subantarctic islands access and anchoring rules, warning about increasing numbers of tohorā / southern right whales in Port Ross in winter
	Amend Rules 40 and 56 to add new restrictions on ancillary craft relating to proximity to the mother ship
	Add a new Rule 47A – access to Perseverance Harbour as discretionary activity, with consequential change to Rule 47 activity description
Glossary	Add new definitions for 'algal growth', 'goose barnacle' and 'mother ship'
Appendix 8	Include the Statutory Acknowledgements of Ngāti Kuri and Te Aupōuri

Submissions on the Proposed Plan Change must address the changes proposed in the plan change set out in Table 1, either by commenting directly on those changes or by suggesting alternative changes to address the same issue. Submissions that do not relate to the proposals in Proposed Plan Change may be struck out by the Hearing Panel as out of scope of the plan change.

Section 32 evaluation requirements

Section 32 of the RMA sets out the requirements for preparing and publishing evaluation reports for proposals under the Act and reads as follows.

(1) An evaluation report required under this Act must—

(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and

(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—

(i) identifying other reasonably practicable options for achieving the objectives; and

(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and

(iii) summarising the reasons for deciding on the provisions; and

(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

(2) An assessment under subsection (1)(b)(ii) must—

(a) identify and assess the benefits and costs of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the

provisions, including the opportunities for—

(i) economic growth that are anticipated to be provided or reduced; and

(ii) employment that are anticipated to be provided or reduced; and

(b) if practicable, quantify the benefits and costs referred to in paragraph (a); and

(c) assess the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the provisions.

(3) If the proposal (an **amending proposal**) will amend a standard, statement, national planning standard, regulation, plan, or change that is already proposed or that already exists (an **existing proposal**), the examination under subsection (1)(b) must relate to—

(a) the provisions and objectives of the amending proposal; and

(b) the objectives of the existing proposal to the extent that those objectives—

(i) are relevant to the objectives of the amending proposal; and

(ii) would remain if the amending proposal were to take effect.

(4) If the proposal will impose a greater or lesser prohibition or restriction on an activity to which a national environmental standard applies than the existing prohibitions or restrictions in that standard, the evaluation report must examine whether the prohibition or restriction is justified in the circumstances of each region or district in which the prohibition or restriction would have effect.

(4A) If the proposal is a proposed policy statement, plan, or change prepared in accordance with any of the processes provided for in Schedule 1, the evaluation report must—

(a) summarise all advice concerning the proposal received from iwi authorities under the relevant provisions of Schedule 1; and

(b) summarise the response to the advice, including any provisions of the proposal that are intended to give effect to the advice.

(5) The person who must have particular regard to the evaluation report must make the report available for public inspection—

(a) as soon as practicable after the proposal is made (in the case of a standard, regulation, national policy statement, or New Zealand coastal policy statement); or

(b) at the same time as the proposal is notified.

(6) In this section,—

objectives means,—

(a) for a proposal that contains or states objectives, those objectives:

(b) for all other proposals, the purpose of the proposal

proposal means a proposed standard, statement, national planning standard, regulation, plan, or change for which an evaluation report must be prepared under this Act

provisions means,—

(a) for a proposed plan or change, the policies, rules, or other methods that implement, or give effect to, the objectives of the proposed plan or change:

(b) for all other proposals, the policies or provisions of the proposal that implement, or give effect to, the objectives of the proposal.

Other relevant documents

This report should be read in conjunction with:

- Regional Coastal Plan: Kermadec and Subantarctic Islands (operative from 15 September 2017)[3]
- Proposed Regional Coastal Plan: Kermadec and Subantarctic Islands 2025 with redline of the changes proposed (strike-out of deletions and red underline of new text)

Structure

Part 1 of this report has introduced its, purpose, scope and structure. Part 2 outlines the statutory and planning context.

Part 3 provides some context about the Kermadec Islands and Subantarctic Islands, describing relevant values and threats.

Part 4 explains the drivers behind the plan change and gives details about the proposed changes. Part 5 outlines the plan change process to date, including a description of early engagement.

Part 6 contains the section 32 evaluation of the proposed changes and, finally, Part 7 presents a summary of findings and conclusions.

The back of the report contains a glossary of terms, along with appendices covering summaries of advice and engagement around the proposed changes.

[3] Regional Coastal Plan: Kermadec and Subantarctic Islands. See footnote 1.

Part 2. Statutory and planning framework

Resource Management Act 1991

The purpose of the RMA is "to promote the sustainable management of natural and physical resources".[4] The Operative Plan aims to give effect to this by providing for the sustainable management of the coastal marine areas of Kermadec and Subantarctic Islands. The coastal marine area refers to the area for which the landward boundary is the mean high water springs (MHWS),[5] extending seaward to 12 nautical miles (or 22 kilometres). Figure 1 shows the location of the Islands and the extent of the coastal marine area.

The RMA restricts certain activities in the coastal marine area, unless expressly allowed by a rule in a regional coastal plan or a resource consent.[6] The Operative Plan contains objectives, policies and methods (including rules) that establish the framework for permitting certain activities and assessing proposals for other activities. Through its framework and rules, the Operative Plan provides certainty for existing and potential users of the coastal marine area.

Regional coastal plans are mandatory regional plans under the RMA, which requires at least one regional coastal plan to be in place at all times for the coastal marine area of a region.[7] Regional coastal plans are usually prepared by regional councils or unitary authorities. However, the RMA requires the Minister of Conservation to prepare a regional coastal plan for Kermadec and Subantarctic Islands, providing the Minister certain powers, as follows (emphasis added).[8]

> (1) The Minister of Conservation—
>
> (a) has, in respect of the coastal marine areas of the Kermadec Islands, the Snares Islands, the Bounty Islands, the Antipodes Islands, the Auckland Islands, Campbell Island, and the islands adjacent to Campbell Island, **the responsibilities, duties, and powers that a regional council would have under section 30(1)(d)** if those coastal marine areas were within the region of that regional council; and
>
> (b) may exercise, in respect of the islands specified in paragraph (a),—
>
> (i) the responsibilities, duties, and powers that a regional council would have under this Act if those islands were within the region of that regional council; and
>
> (ii) the responsibilities, duties, and powers that a territorial authority would have under this Act if those islands were within the district of that territorial authority.
>
> (2) The responsibilities, duties, and powers conferred on the Minister of Conservation by

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4 Resource Management Act 1991, section 5(1).

5 Mean high water springs are the average of the levels of each pair of successive high waters during the period of about 24 hours when the range of the tide is greatest (approximately every 14 days). See Toitū Te Whenua. Tides Glossary. [accessed 12 May 2025].

6 Resource Management Act 1991, section 12, section 14 and section 15.

7 Resource Management Act 1991, section 64(1).

8 Resource Management Act 1991, section 31A.

subsection (1)(b) are in addition to the powers conferred on that Minister by subsection (1)(a).

(3) The responsibilities, duties, and powers conferred on the Minister of Conservation by this section are in addition to the responsibilities, duties, and powers conferred on that Minister by this Act.

Settlement legislation

Both Ngāti Kuri and Te Aupōuri expressed an association with Rangitāhua / Kermadec Islands, which was recorded in the Operative Plan as originally proposed and notified in 2011. At that point, neither Ngāti Kuri nor Te Aupōuri had settled with the Crown, but their historical associations have since been recognised through settlements.[9] The plan change proposes to include the Statutory Acknowledgements of both iwi from their settlement acts.

Ngāi Tahu ki Murihiku are kaitiaki of the Southland region, including the Subantarctic Islands and other southern islands. Ngāi Tahu settled with the Crown in November 1997.[10] As detailed in the Operative Plan, the Ngāi Tahu Claims Settlement Act 1998 acknowledges the special association of Ngāi Tahu with taonga species found in the Southern Ocean. The Statutory Acknowledgements do not cover the Subantarctic Islands.

Marine and Coastal Area (Takutai Moana) Act 2011

The Marine and Coastal Area (Takutai Moana) Act 2011 acknowledges the importance of the marine and coastal area to all New Zealanders and provides for the recognition of the customary rights of iwi, hapū and whānau in the common marine and coastal area.[11]

Under the Act, neither the Crown nor any other person owns the common marine and coastal area. However, an iwi, hapū or whānau group may have their customary rights in the common marine and coastal area recognised through a recognition agreement negotiated with the Crown, or by applying for a recognition order from the High Court. Groups can apply for a protected customary right and/or a customary marine title.

Protected customary rights

A protected customary right is a right exercised since 1840 and that continues to be exercised. It could include activities like collecting hāngi stones or launching waka. The High Court can grant a protected customary right order to an iwi, hapū or whānau group, or the group can negotiate a recognition agreement with the Crown. The iwi, hapū or whānau group then has the ability to exercise their protected customary rights without need for a resource consent, and without needing to pay occupation charges or royalties.

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9 Ngāti Kuri Claims Settlement Act 2015 and Te Aupouri Claims Settlement Act 2015.

10 Ngai Tahu Claims Settlement Act 1998.

11 The terms 'marine and coastal area' and 'common marine and coastal' area are defined in section 9 of the Marine and Coastal Area (Takutai Moana) Act 2011.

Customary marine title

Customary marine title exists when an applicant group holds a specified area in accordance with tikanga and has either:

- exclusively used and occupied the area from 1840 to the present day without substantial interruption; or
- received an area after 1840 through customary transfer.

When an iwi, hapū or whānau group is granted customary marine title, the group is given certain permission rights relating to resource management and conservation in the area. One of these is a permission right under the RMA, which provides the group with the ability to give or withhold permission for a new consented activity (with some exceptions).

Protected customary rights and customary marine title in the Kermadec and Subantarctic Islands

On behalf of its iwi, the Ngāti Kuri Trust Board has applied for protected customary rights and customary marine title in the common marine and coastal area of Rangitāhua / Kermadec Islands. Te Rūnanga Nui o Te Aupōuri Trust has also applied on behalf of Te Aupōuri for protected customary rights and customary marine title in the common marine and coastal area of Rangitāhua / Kermadec Islands.

Other applications for customary marine title and protected customary rights of the common marine and coastal area of Rangitāhua / Kermadec Islands are available online from Te Tari Whakatau.

Ngāi Tahu Whānui and Ngāti Mutunga o Wharekauri have applied for protected customary rights and customary marine title in the common marine and coastal area of the subantarctic islands. Te Rūnanga o Ngāi Tahu seeks customary marine title on behalf of Ngāi Tahu Whānui over all of the coastal marine areas of all of the subantarctic islands. The Ngāti Mutunga o Wharekauri Iwi Trust has applied on behalf of its iwi for customary marine title and protected customary rights for the common marine and coastal area of the Auckland Islands.

Other legislation

Anyone responsible for activities in a coastal marine area must comply with all relevant legislation, regulations and bylaws. Other legislation relating to the coastal marine area of the Kermadec and Subantarctic Islands is listed below.

- Crown Minerals Act 1991
- Biosecurity Act 1993
- Marine Reserves Act 1971
- Marine Mammals Protection Act 1978
- Continental Shelf Act 1964
- Maritime Transport Act 1994
- Wildlife Act 1953

- Heritage New Zealand Pouhere Taonga Act 2014
- Fisheries Act 1996
- Hazardous Substances and New Organisms Act 1996
- Conservation Act 1987
- Reserves Act 1977

Planning documents

Planning documents of particular relevance to the plan change are set out below.

New Zealand Coastal Policy Statement 2010

The New Zealand Coastal Policy Statement 2010 (NZCPS) contains objectives and policies to achieve the purpose of the RMA and address national key issues in the coastal environment. Regional coastal plans must give effect to it. The NZCPS contains 29 policies, but not all of these are relevant to the Kermadec Islands and Subantarctic Islands, given their remote locations, outstanding values and other legislative protections. The relevant policies include:

- Policy 1 – Extent and characteristics of the coastal environment
- Policy 2 – The Treaty of Waitangi, tangata whenua and Māori heritage
- Policy 3 – Precautionary approach
- Policy 4 – Integration
- Policy 5 – Land or waters managed or held under other Acts
- Policy 11 – Indigenous biological diversity (biodiversity)
- Policy 12 – Harmful aquatic organisms
- Policy 13 – Preservation of natural character
- Policy 15 – Natural features and natural landscapes
- Policy 17 – Historic heritage identification and protection
- Policy 23 – Discharge of contaminants

No other national policy statements and no national environmental standards apply in the costal marine area of the Kermadec and Subantarctic Islands.

Te Mana o te Taiao / Aotearoa New Zealand Biodiversity Strategy 2020

Te Mana o te Taiao recognises that biodiversity in Aotearoa New Zealand (and across the rest of the world) is declining due to a range of threats and pressures. Direct pressures include changes in use of land, freshwater and marine environments; introduced species; unsustainable use of species and resources; pollution; and climate change. Te Mana o te Taiao seeks to address these pressures and provide direction for the protection, restoration and sustainable use of biodiversity over the next 30 years.

Regional Coastal Plan: Kermadec and Subantarctic Islands

There is no Regional Policy Statement for either group of islands. The Operative Regional Coastal Plan is the only relevant RMA plan. Key aspects of this plan are summarised in Part 3, below.

Statutory Acknowledgements

Statutory Acknowledgements are statements in Treaty of Waitangi settlements between Crown and tangata whenua (generally iwi) that are intended to recognise the mana of tangata whenua groups in relation to identified sites and areas. Through Statutory Acknowledgements, the Crown recognises the particular cultural, spiritual, historic, and traditional association of an iwi with each statutory site and area.

Each relevant Treaty Claim Settlement Act includes text for Statutory Acknowledgements, and Survey Office plans show the relevant area locations. While the Survey Office plans may not indicate the precise boundaries of the Statutory Acknowledgement area, they do indicate the location as nearly as possible.

Statutory Acknowledgements only apply to Crown-managed areas, which may include rivers, lakes, wetlands, a landscape feature, or a particular part of the coastal marine area. Where a Statutory Acknowledgement relates to a river, lake, wetland or coastal area, it only applies to the part of the bed that the Crown manages.

The requirements attaching to Statutory Acknowledgements will vary between settlements. Generally speaking, the requirements aim to improve the implementation of existing RMA processes – particularly the decision-making process in relation to notification of resource consent applications.

The Settlement Acts for both Ngāti Kuri and Te Aupōuri require the consent authority (here, the Minister of Conservation), to attach information recording the Statutory Acknowledgement to all statutory plans that wholly or partly cover a statutory area.[12] As part of this plan change, the Plan Change includes the relevant information relating to the Statutory Acknowledgements of Ngāti Kuri and Te Aupōuri relating to the Kermadec Islands.

As noted above, the Statutory Acknowledgements for Ngāi Tahu do not include the Subantarctic Islands.

Iwi environmental management plans

Iwi environmental management plans are planning documents recognised by an iwi authority.[13] The RMA requires that preparation or change of a regional plan (in this case, by the Minister) must consider any relevant planning document recognised by an iwi authority.[14]

Three iwi planning documents are relevant to the Kermadec Islands and the Subantarctic Islands, as outlined below.

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[12] Ngāti Kuri Claims Settlement Act, section 115 and Te Aupouri Claims Settlement Act, section 117.
[13] An iwi authority represents an iwi and is recognised by that iwi as having authority to do so.
[14] Resource Management Act, section 66.

Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008

Ngāi Tahu ki Murihiku are kaitiaki of the Southland region and the oceans around it out to 200 nautical miles, including the Subantarctic Islands. They have prepared a management plan, Te Tangi a Tauira: The Cry of the People,[15] which:

- describes the values underpinning the relationship between Ngāi Tahu ki Murihiku and the natural environment
- identifies the primary issues associated with natural resource and environmental management in the area from the perspective of Ngāi Tahu ki Murihiku
- articulates Ngāi Tahu ki Murihiku policies and management guidelines for natural resource and environmental management, wāhi tapu and wāhi taonga.

Ngāti Kuri – Pou Taiao: Environmental Management 2018

The Ngāti Kuri Trust Board developed a plan in 2018 – Pou Taiao: Environmental Management (Pou Taiao).[16] Pou Taiao identifies that Ngāti Kuri want to build capacity and capability to adequately engage the full range of legislative provisions for environmental management – including in strategic and operational partnership with the Crown and local authorities.

Pou Taiao notes that Statutory Acknowledgements – as recorded statements of the association of Ngāti Kuri with particular areas – provide for greater involvement in resource consent processes. Rangitāhua / Kermadec Islands is one of four areas in the Ngāti Kuri rohe covered by Pou Taiao.

Ngā Tai e Rua o Te Aupōuri Environmental Management Plan 2018

Te Rūnanga Nui o Te Aupōuri prepared an Environmental Management Plan in 2018,[17] which:

- refers to an eco-cultural system, noting that culture cannot be separated from the wider environment
- identifies that protection of the eco-cultural system must be the priority for natural resource management
- sets key strategic objectives.

Conservation management strategies

Under the Reserves Act 1977, all of Kermadec and Subantarctic Islands are nature reserves, and the Subantarctic Islands are also national reserves. Both groups of islands are managed by conservation management strategies, developed under the Conservation Act 1987. There is an overlap in the jurisdiction of the coastal plan (for

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[15] Te Rūnanga o Ngāi Tahu. 2008. Te Tangi a Tauira: The Cry of the People – Ngāi Tahu ki Murihiku Natural Resource and Environmental Iwi Management Plan 2008.

[16] Ngāti Kuri Trust Board. 2018. Pou Taiao – Environmental Management 2018.

[17] Te Rūnanga Nui o Te Aupōuri. 2018. Ngā Tai e Rua o Te Aupōuri Environmental Management Plan (copy available on request from Te Aupōuri).

which the inward boundary is MHWS) and the two conservation management strategies (for which the seaward boundary is the mean low water springs).

Integrating the management of the coastal plan and the CMSs for the two groups of islands a consistent approach across the land and sea. Such integration allows for:

- management of the Kermadec Islands and the Subantarctic Islands that takes into account the close interdependence of ecosystems on the land and in the sea in these areas
- It also allows integrated management of sites of historic and cultural heritage that span the line of MHWS.

The changes proposed by the Plan Change are consistent with the preservation, conservation and protection of natural and historic resources. Part 3 of this report provides further explanation of the land–sea interface.

Part 3. Context for the islands – values and threats

The Kermadec Islands, Subantarctic Islands and their coastal marine areas are remote, unique, and have a high degree of endemism. In recognition of these values:

- the land parts of the islands are nature reserves under the Reserves Act 1977
- the Subantarctic Islands are national reserves under the Reserves Act (the highest form of statutory protection in Aotearoa New Zealand)
- all the islands except Tini Heke / Snares Islands have marine reserves for part or all of their coastal marine area
- all the Subantarctic Islands and their full coastal marine area are UNESCO World Heritage Sites.

Accordingly, the Operative Plan's policy approach is that development is not appropriate. The Plan also recognises the 'exceptional natural character'[18] values of all the islands and their coastal marine areas, the area and location of which are detailed in Figure 1. It aims to preserve these values by restricting activities that could have adverse effects on natural character.

The Operative Plan has a particular focus on minimising the risk of oil spills and biosecurity breaches, being the largest identified threats to the islands and their coastal marine areas. A key relevant restriction controls vessel access close to shore, based on vessel length. Vessel length is used as a proxy for the numerous factors that can influence the risk of a navigation safety incident that could result in environmental impact from an oil spill and/or biosecurity breach. The Operative Plan includes requirements for vessels to have clean hulls, to reduce the risk of introducing marine pests.

The Operative Plan also prohibits the use of heavy fuel oil in the territorial seas of all of the islands, effectively limiting vessels to using marine gas oil or marine diesel (at least until alternative fuels are developed). Although these are lighter, cleaner fuels than heavy fuel oil, they could still have adverse effects on the environment if spilled.

Further context about the Kermadec Islands and Subantarctic Islands can be found in the Operative Plan.[19] This information includes the 2009–10 current use values, which may be out of date. Updating these is outside the scope of the Plan Change, but will be updated in the next full plan review.

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[18] This part of the evaluation report describes the natural character of both groups of islands as 'exceptional', because the Plan currently uses the term 'significant' natural character, and the changes in the Proposed Plan include amending this to 'outstanding' natural character.

[19] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, pp. 4–20.

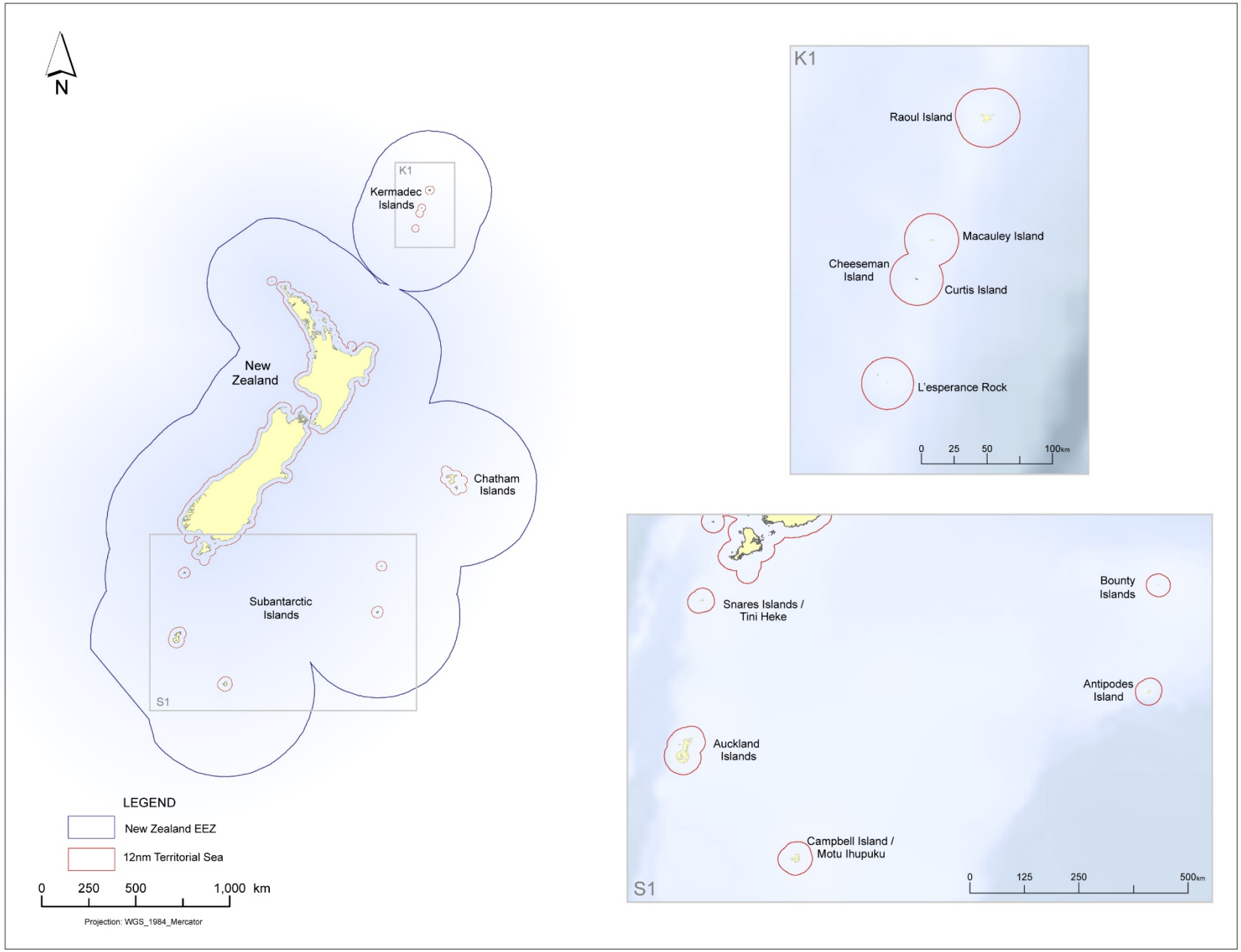

Figure 1. Location of the Kermadec Islands and Subantarctic Islands

Part 4. Drivers and proposals for change

When the Operative Plan was approved in 2017, it was signalled to the Minister that a plan change would be needed, due to the passage of time since the Plan had been drafted (in 2009–10), and due to the lengthy appeal process.

The plan change needs to reflect that, since drafting of the Operative Plan, there have been developments in legislation, domestic and international policy, case law and best practice. Research and developments have also changed technology since 2009–10. Implementation of the Operative Plan (since notification in 2011) has identified the need for further amendments related to health and safety, and environmental protection.

This part of the evaluation report explains the drivers for the changes and gives details about changes in the Proposed Plan Change, under the following grouping:

- Giving *better* effect to New Zealand Coastal Policy Statement 2010:
    - Domestic and International changes to the management of vessel biofouling and the proposed Plan Changes to the management of vessel biofouling (relevant to Policy 12 NZCPS).
    - NZCPS polices 13 and 15

- Access and anchoring - re-visiting some of the surface water access and anchoring provisions, including:
    - Access and anchoring by vessels longer than 125m
    - Port Ross restrictions when southern right whales are present
    - Additional anchorages for scampi fleet
    - Use of ancillary craft

Statutory Acknowledgements will be included in the Proposed Plan Change (see section above on Statutory Acknowledgements). This is a legal requirement and will not be subject to submissions.

Note the use of the term 'DOC' in this part may indicate actions on behalf of the Minister, as the local authority for the Kermadec Islands and the Subantarctic Islands.

Giving better effect to the New Zealand Coastal Policy Statement

The RMA requires regional coastal plans to give effect to the New Zealand Coastal Policy Statement (NZCPS). In 2009–10, when drafting the Operative Plan, DOC ensured the plan gave effect to the New Zealand Coastal Policy Statement 1994 (NZCPS 1994). Before notifying the Operative Plan on 15 January 2011, DOC assessed it against the NZCPS 1994 and the NZCPS 2010. DOC concluded that, although some wording was different, the intent was consistent, and the Operative Plan gave effect to both versions of the NZCPS.

When seeking approval of the Operative Plan from the Minister for in 2017, DOC advised that, although the plan did give effect to the NZCPS 2010, it would benefit from a plan change to give better effect to policies 12, 13 and 15.

Policy 12 – Harmful aquatic organisms

The Operative Plan's controls to manage risks from vessel hull and niche area biofouling[20] are relevant to policy 12 of the NZCPS 2010. The regulatory regime in the Operative Plan seeks to minimise the risk of introducing harmful aquatic organisms (in vessel biofouling).

The sections of the Operative Plan that give effect to policy 12 of the NZCPS 2010 are:

- Issue 1, including the Issue 1 objectives
- Policies 3–5 and Rules 29–32, which give effect to those policies[21]
- Appendices 4 to 7.

These parts of the Operative Plan provide a comprehensive framework designed to minimise the risk of introducing harmful aquatic organisms (marine pests) to the coastal marine area of the islands, that:

- ensures a vessel has an up-to-date anti-fouling system
- sets a stringent threshold for acceptable levels of fouling
- sets timeframes for inspections
- specifies requirements, methods and the forms to be used for inspections
- includes a protocol for a risk assessment to be undertaken in the event the allowable biofouling threshold cannot be met.

The policies and rules in the Operative Plan were drafted on the basis of recommendations contained in a report NIWA prepared for DOC in 2010.[22]

At the same time the Operative Plan was being drafted, the International Maritime Organization (IMO) was developing guidance to provide a globally consistent approach to the management of biofouling on ships' hulls.[23] DOC kept a close watch on drafts of these guidelines as they were being developed, and the biofouling provisions in the Operative Plan are consistent with the IMO 2011 Biofouling Guidelines. More recently, the IMO adopted updated guidance in the form of the IMO 2023 Biofouling Guidelines.[24]

The Ministry for Primary Industries (MPI) uses a Craft Risk Management Standard (CRMS) developed under the Biosecurity Act 1993 to regulate and manage the risk of

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[20] The term "biofouling" refers to the undesirable the accumulation of aquatic organisms such as micro-organisms, plants, and animals on surfaces and structures immersed in or exposed to the aquatic environment.

[21] Note that the Performance Standards in Table 1 of the Operative Plan form part of these rules.

[22] Floerl O, Wilkens S, Inglis G. 2010. Development of a Template for Vessel Hull Inspections and Assessment of Biosecurity Risks to the Kermadec and sub-Antarctic Islands Regions. NIWA report no. CHC2010-086. Prepared for Department of Conservation. Christchurch: National Institute of Water & Atmospheric Research Ltd.

[23] International Maritime Organization. 2011. 2011 guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species. Annex 26. Resolution MEPC.207(62). Adopted on 15 July 2011.

[24] International Maritime Organization. 2023. 2023 guidelines for the control and management of ships' biofouling to minimize the transfer of invasive aquatic species. Annex 17. Resolution MEPC.378(80). Adopted on 7 July 2023.

introducing non-native, invasive marine pests in biofouling on the hulls of arriving vessels (entering Aotearoa New Zealand's territorial sea). MPI introduced the first such CRMS in 2014, with compliance being on a voluntary basis. This then shifted to mandatory compliance in the CRMS for Biofouling (2018).

In drafting the Operative Plan, DOC kept close contact with MPI while both agencies were developing their respective biofouling provisions, to ensure consistency of rules and requirements. MPI has subsequently replaced the CRMS for Biofouling (2018) with the CRMS for Vessels (2023).[25] Both of these standards incorporated by reference the IMO 2011 Biofouling Guidelines and IMO 2023 Biofouling Guidelines, respectively.

The key changes contained in the IMO 2023 Biofouling Guidelines and the MPI CRMS for Vessels (2023) are outlined below, followed by a summary of the changes contained in the Proposed Plan Change. In developing the proposed changes, DOC has sought to be as consistent as possible with the relevant IMO and MPI guidance.

IMO 2023 Biofouling Guidelines

The IMO 2023 Biofouling Guidelines identify a major threat to the world's oceans and to the conservation of biodiversity from the introduction of invasive aquatic species to new environments by ships. Invasive aquatic species can establish a reproductive population in the host environment, becoming invasive, out-competing native species, and multiplying into pest proportions. The IMO developed guidelines to provide a globally consistent approach to the management of biofouling, aimed at reducing the transfer of invasive aquatic species by ships.

The IMO 2023 Biofouling Guidelines recognise the complexity of predicting the risk of introducing invasive species, so they seek to minimise the accumulation of biofouling on vessels. Alongside encouraging proactive (rather than reactive) cleaning and maintenance, the IMO's recommended approach to biofouling management is summarised below and illustrated in Figure 2.[26]

- Use of anti-fouling systems (AFS) that include both anti-fouling coatings and marine growth prevention systems (these are AFS used for the prevention of biofouling accumulation in niche areas or other surface areas, but may also include methods which apply surface treatments).
- Use of Biofouling Management Plans (BFMP) (a detailed example is provided in Appendix 3 of the Guidelines).
- Monitoring biofouling and hull/fuel performance as part of the BFMP.
- Conduct inspections either as scheduled in the BFMP, or as a part of contingency actions. Specific guidance is as follows.
    - Part 8 provides guidance on inspections, including frequency. Inspections should be undertaken 18 months from applying the AFS and then 12 to 18 months after that, depending on the monitoring or any operational

[25] Ministry for Primary Industries. 2023. Craft Risk Management Standard: Vessels.
[26] Taken from IMO 2023 Biofouling Guidelines. See n 24, p. 6.

changes. More frequent inspections may be required, to confirm continued effectiveness of an ageing or damaged AFS.

  - Appendix 1 sets out an assessment of biofouling risk, including a table of examples of biofouling risk parameters and description and evaluation guidance.
  - Appendix 2 sets out guidance on inspection and cleaning reports. Inspections include assessing the level of biofouling of the hull and niche areas, and assessing the condition of the AFS.

- Taking contingency actions if risk of biofouling is detected, including in-water inspections, in-water cleaning if local regulation allows,[27] and AFS maintenance.
- Recording all actions taken to manage biofouling and give effect to the BFMP in a Biofouling Record Book (a detailed example is provided in Appendix 4 of the Guidelines).
- Making continual improvements, constantly looking for better options to monitor and manage biofouling, including reviewing the performance of coatings and systems.

Regarding inspections, the IMO 2023 Biofouling Guidelines include a rating scale to assess the extent of biofouling in inspection areas.[28] The IMO scale is similar to that included in the Operative Plan,[29] except that it has only four levels where the Operative Plan has 6. This difference has no material implications, as the threshold of allowable fouling in the Operative Plan is Level 1, which is the same as Level 1 in the IMO 2023 Biofouling Guidelines (and the same as the 'Long-stay threshold for vessel biofouling' in the CRMS for Vessels 2023). In all three, this allowable threshold is microfouling (or slime layer) only. However the Operative Plan and the CRMS for Vessels 2023 exempt goose barnacles given they are ubiquitous and distinctive to identify.

The IMO 2023 Biofouling Guidelines recognise that monitoring fuel efficiency will not provide an indication of biofouling growth in niche areas. Guidance is provided for management of niche areas, which includes:

- maintaining any marine growth prevention systems to ensure they are working effectively
- regularly polishing uncoated surfaces, such as propellers
- treatment of in-water cooling systems and discharge of any treated water in accordance with applicable local requirements
- minimising the use of soap, cleaner or detergent – and, where they are used, ensuring they are non-toxic, phosphate free, biodegradable and non-hazardous to the marine environment.

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[27] The CRMS for Vessels (2023) does not allow in-water cleaning of international vessels. See n 25, clause 1.5(4)(c).

[28] IMO 2023 Biofouling Guidelines. See n 24, p. 16.

[29] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Appendix 4, pp. 118–19.

The IMO 2023 Biofouling Guidelines note that during an inspection, niche areas in the ship-specific BFMP should be inspected as a priority. All inspected areas should be allocated a fouling rating number in line with the extent of fouling.

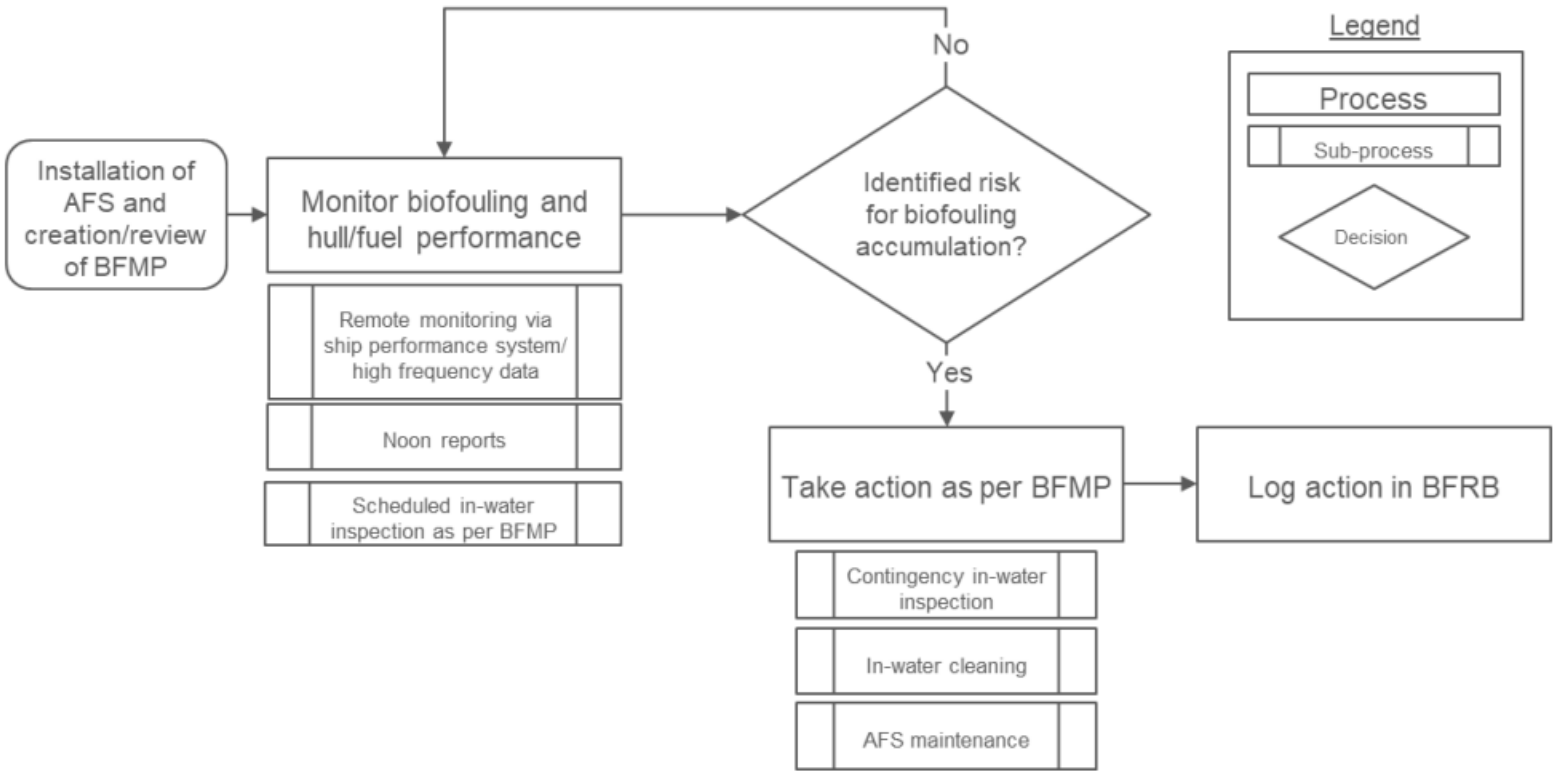

Figure 2. IMO 2023 Biofouling Guidelines flowchart of biofouling management activities of a ship

MPI CRMS - Vessels 2023

The CRMS - Biofouling 2018 contained two different thresholds for allowable vessel hull biofouling, depending on where a vessel intended to go once in Aotearoa New Zealand and for how long. The CRMS provided two classifications in that regard.

- 'Short-stay vessels' have the intent to visit only the place of first arrival,[30] for no more than 20 days (e.g. cargo ships, bulk carriers and most large cruise ships). The allowable threshold for biofouling allows some fouling of lower-risk species.
- 'Long-stay vessels' have the intent to stay in Aotearoa New Zealand's territorial seas for more than 20 days and/or to visit places other than the place of first arrival.[31] The fouling threshold is allows microfouling (or slime layer) and goose neck barnacles only.

In October 2023, the CRMS for Vessels replaced the CRMS for Biofouling (2018) and the CRMS for Vessels (2018), which managed above the water line (topside) biosecurity risks on vessels. The CRMS for Vessels 2023 merged regulation of hull and niche area biofouling and above-water biosecurity risks into one standard, and the 2023 CRMS included changes and updates such as:

- additional information requirements
- new schedules containing the minimum evidence requirements for vessel biofouling inspection
- clarification of the acceptable measures for meeting the clean hull requirements
- increase of the short-stay vessel duration to 28 days
- amendments to simplify the short-stay vessel biofouling threshold
- a clause specific to the management of cruise vessels
- amendment of the Lymantria (Asian gypsy moth) risk period to align with international regulations.

The new cruise ship clause allows cruise ship operators to apply for an MPI-approved system for cruise ships.[32] This provides an alternative option for cruise ships to demonstrate compliance that might suit their operational profile better, while still addressing the biosecurity risk (both marine and topside). In practical terms, to comply with the CRMS for Vessels (2023) standards for biofouling and topside biosecurity, cruise ships coming to Aotearoa New Zealand (including those that plan to visit the subantarctic islands) can either:

- comply with the long-stay requirements when they arrive and, if they depart Aotearoa New Zealand waters, each time they return; or

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[30] The designation of 'place of first arrival' is described in section 37 of the Biosecurity Act 1993.
[31] The 20-day provision has since been extended to 28 days.
[32] CRMS for Vessels (2023). See n 25, clause 2.3.

- apply in advance for an MPI-approved system for cruise ships which, if approved, means the cruise ships will undergo a single season clearance (as per their declared itinerary).

Proposed changes to manage vessel biofouling better

The changes in the Proposed Plan Change include updating the methods and forms to be used for inspections, in line with the updated CRMS for Vessels (2023) and IMO 2023 Biofouling Guidelines.

The inspection provisions in the Operative Plan relate to biofouling of both the vessel hull and niche areas. However, for niche areas the Operative Plan states:[33]

> 2.4 Niche areas
>
> All niche areas that are below the waterline for an in-water inspection, or the Plimsoll line for an out-of-water inspection, on a vessel's hull must be inspected as part of any inspection.
>
> Where it is not practicable to access a niche area to inspect part or all of that niche area then for the purpose of this inspection process there is no requirement to inspect the niche area concerned.

Sea chests fall into this category, and there are likely other recessed spaces that will vary vessel to vessel. Inspection Form 1 in Appendix 4 of in Operative Plan requires sea chest gratings to be inspected, but not the sea chests themselves unless the inspection is an out-of-water inspection.[34]

As stated above, the policies and rules in the Operative Plan were drafted on the basis of a 2010 report from NIWA.[35] At that time, inspections and management of vessel hull biofouling were relatively novel. The NIWA report focused on the hull surfaces and easily accessible niche areas.

Further research since 2010 has resulted in a clear consensus that the niche areas of a vessel present the highest risk for growing biofouling and introducing harmful aquatic organisms.[36] A 2020 technical report on biofouling surveys from MPI made the following findings.[37]

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[33] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Appendix 4, p. 109.

[34] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Appendix 4: Form 1, p. 111.

[35] Floerl O et al. See n 22.

[36] Jones E, McClary D. 2021. Summary - Testing of reactive in-water cleaning systems for removal of vessel biofouling. Biosecurity New Zealand Technical Paper No. 2021/11. Prepared as part of Operational Research Project 405364. Wellington: Ministry for Primary Industries; Floerl O, Inglis G. 2005. Starting the invasion pathway: the interaction between source populations and human transport vectors. Biological Invasions 7:589–606; Floerl O, Inglis G, Hayden B. 2005. A risk-based predictive tool to prevent accidental introductions of nonindigenous marine species. Environmental Management 35(6): 765-768; Georgiades E, Kluza D. 2014. Science underpinning the thresholds proposed in the CRMS: Biofouling on vessels arriving to New Zealand. MPI Technical Paper No: 2014/22. Wellington: Ministry for Primary Industries.

[37] Georgiades, E, Kluza, D. 2020. Conduct of in-water biofouling surveys for domestic vessels. Biosecurity New Zealand Technical Paper No. 2020/04. Prepared for the Diagnostic and Surveillance Services and Readiness and Response Services Directorates. Wellington: Ministry for Primary Industries. p. 1.

> The most efficient approach to survey vessels is one that focusses on those areas more prone to biofouling (i.e., niche areas and select planar surfaces).
>
> Biofouling is not evenly distributed on the submerged surfaces of a vessel and is typically encountered on niche areas. Niche areas are those areas that may be more susceptible to biofouling attachment and growth due to different hydrodynamic forces, susceptibility to coating system wear or damage, or being inadequately or not painted. These areas include, but are not limited to, sea chests, bow thrusters, propeller shafts, inlet gratings, and dry-dock support strips. Despite accounting for a relatively small proportion of the submerged surfaces of vessels, the higher likelihood for niche areas to be fouled means that they pose a biosecurity risk to New Zealand's marine resources.

Technology to allow the cleaning or treatment of such spaces is also improving all the time.

The intention is not to change the policies or the rules themselves, but to change how the hull and niche area inspections are undertaken. In that way, the inspections can still be done by dive service providers without the need for expensive taxonomic expertise, while adding more rigour and reliability to the inspection itself, and better managing the risk in niche areas. This will also achieve consistency with both the CRMS - Vessels 2023 and the IMO 2023 Biofouling Guidelines.

The Operative Plan uses the same threshold of allowable biofouling as the CRMS - Vessels 2023 for long-stay vessels (that is, microfouling (or slime layer) and goose neck barnacles only).[38] No change is proposed for this threshold of allowable biofouling.

Proposed changes to better give effect to policy 12 of the NZCPS

Increase the minimum evidence requirements to be collected during hull and niche area inspections.

Increase of the minimum evidence requirements to be collected during hull and niche area inspections, similar to that of the CRMS – Vessels 2023. This includes some changes in the instructions for inspections at the beginning of Appendix 4, requiring more information about the vessel and more information to be collected during inspections to demonstrate compliance with Performance Standard 1.1 and recorded on Forms 1 and 2. Refer to the proposed redline changes in Appendix 4.

Change threshold of allowable biofouling in between inspections The proposal is to change the threshold of allowable biofouling in between inspections, to simplify the biofouling threshold and to better align with the threshold in the CRMS - Vessels 2023. Refer to the proposed redline changes in Table 1, Performance Standard 1.2.

Remove restrictions on who can undertake hull inspections

Instead of requiring hull inspections to only be undertaken by inspection providers approved by the Minister, DOC will rely on the improved information requirements in the hull inspections proposed for Appendix 4 (described above). This will better align

[38] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Performance Standard 1.1 in Table 1, p. 59.

with MPI's requirements for vessels coming into Aotearoa New Zealand and reduce potential for duplication of inspections. Refer to the proposed redline changes in Appendix 5.

Health and safety requirements

The Operative Plan currently refers to out-of-date health and safety requirements. The plan change removes the requirement in Appendix 5 that inspection providers must be approved by the Minister. This means the plan will no longer reference health and safety requirements (which the providers themselves are required to comply with), and will avoid referring to requirements that may become out of date in the future.

Minor changes proposed for consistency with MPIs CRMS - Vessels 2023 and the IMO 2023 Guidelines 2023 include:

- changing the use of the initialism 'BMP' for Biofouling Management Plan to 'BFMP' (refer to the proposed redline changes in Rule 29, Performance Standard 1.3(b), the Glossary and Appendix 7)
- requiring biofouling completed inspection Forms 1 and 2 and the photography and video information required by Appendix 4 to be provided 'at least 48 hours' before accessing the coastal marine are (refer to the proposed redline changes in Performance Standards 2.3 and 3.2)
- changing the requirement from having an 'anti-fouling system applied in accordance with the manufacturer's instructions' to having 'a valid IMO Anti-fouling Certificate' (refer to the proposed redline changes in Performance Standards 3.1 and 3.2)
- including a new standard for vessels that are not required to have a valid IMO Anti-fouling Certificate requiring them to instead provide evidence of an anti-fouling system and its date of application (refer to the proposed redline changes adding Performance Standard 3.3).

Policy 13 – Preservation of natural character

Policy 13 of the NZCPS is about preserving the natural character of the coastal environment and protecting it from inappropriate subdivision, use and development. This NZCPS policy is the basis for the Operative Plan, which seeks to preserve the natural character of the coastal marine area of the islands and only enable use that is consistent with preserving that natural character and protecting biological diversity.

As described in Issue 1, the starting point of the Operative Plan is that all of the coastal marine areas of all of the Kermadec and Subantarctic Islands have 'significant natural character'. At the time the Operative Plan was drafted, this language was consistent with NZCPS 1994, which states [emphasis added]:[39]

> It is a national priority for the preservation of the natural character of the coastal environment to **protect** areas of significant indigenous vegetation and significant habitats of indigenous fauna in that environment by:

[39] New Zealand Coastal Policy Statement 1994, policy 1.1.2.

- **avoiding** any actual or potential adverse effects of activities on the following areas or habitats:
  (i) areas and habitats important to the continued survival of any indigenous species; and
  (ii) areas **containing** nationally vulnerable species or nationally outstanding examples of indigenous community types …

The NZCPS 2010 uses different language in its policy 13, referring to areas of 'outstanding' natural character and a requirement to 'avoid' adverse effects on areas of outstanding natural character.

In assessments of the Plan's provisions against the NZCPS 2010 just before notification (2011) and again (in 2017) just before seeking the Minister of Conservation approve the Plan, DOC's view was that the Plan did give effect to Policy 13. In both assessments DOC considered the wording "significant natural character" to be synonymous with the words "outstanding natural character", and that the intent of the 1994 and 2010 NZCPS natural character policies were the same and the Proposed Plan was consistent with both. In addressing appeals on the first Proposed Plan, the Minister of Conservation also requested evidence from external and internal experts on the natural character of the Islands. That evidence concluded the natural character values were "outstanding".

In its 2017 assessment, DOC also assessed the Plan against the relevant NZCPS 2010 polices considering the *New Zealand King Salmon*[40] Supreme Court decision (*King Salmon).* King Salmon confirmed the meaning of the word 'avoid' as having its ordinary meaning of 'not allow' or 'prevent the occurrence of'[41]. DOC concluded that the Proposed Plan at that time still gave effect to NZCPS policies 11, 12 and 13 in light of *King Salmon.*

The *King Salmon* case put a spotlight on the importance of policy 13 of the NZCPS 2010 and the hierarchy this policy contains, including the requirement being that one 'must avoid' adverse effects on areas of 'outstanding' natural character. DOC still considers the Operative Plan gives effect to policy 13 in this regard. However, the Proposed Plan Change amends the Issue 1 wording to match the NZCPS 2010 and avoid any doubt that the marine environments of the islands are of 'outstanding natural character', on which adverse effects are to be avoided.

The plan change therefore includes replacing the term 'significant natural character' with 'outstanding natural character' where it occurs. This involves amendments to the Issue 1 description and the 'Monitoring efficiency and effectiveness' section.[42] No amendments are required to objectives, policies or rules.

Note that other regional coastal plans around Aotearoa New Zealand define and map areas in their regions considered to have outstanding natural character. For the

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[40] *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38. See also Atkins H. 2019. Guidance note on the implications of the Supreme Court *King Salmon* decision for planning practice and the interpretation of the New Zealand Coastal Policy Statement. Atkins Holm Majurey. The Supreme Court decision – which made findings in relation to section 5 of the RMA and giving effect to NZCPS policies 13 and 15 – has heavily informed subsequent case law.

[41] *King Salmon* at [93].

[42] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, pp. 21 and 66.

Kermadec and Subantarctic Islands, the entire coastal marine area of the two groups of islands is of outstanding natural character, so mapping is not required.

Proposed changes to better give effect to policy 13 of the NZCPS

Replace term 'significant natural character' with 'outstanding natural character'

The two areas of text that will be amended are:

- the Issue 1 description, paragraphs 1, 4 and 5 (refer to the proposed redline changes on page 21 of the Issue 1 description)
- the 'Monitoring efficiency and effectiveness' section, paragraph 2 (refer to the proposed redline changes on page 66 of the Plan).

Policy 15 – Natural features and landscapes

The protection of natural features and landscapes is required under the RMA[43] and under policy 15 of the NZCPS 2010. The NZCPS 1994 contained no equivalent policy.

Like policy 13 of the NZCPS 2010, policy 15 takes a tiered approach to protecting landscapes (including seascapes) and natural feature values. Policy 15(a) directs that adverse effects on outstanding natural features and outstanding natural landscapes in the coastal environment must be avoided. Policy 15(b) requires significant adverse effects on other natural features and landscapes in the coastal environment to be avoided, and other adverse effects to be avoided, remedied or mitigated.

The Operative Plan does not specifically address natural features and landscapes separately to natural character. In its assessments throughout the drafting and approval process, DOC concluded that the plan gives effect to policy 15 in practice, by affording a very high level of protection to the Kermadec and Subantarctic Islands and their territorial seas.

Policy 15 has been considered again, in preparing this plan change. The proposed changes to the Plan explain above in the section on Policy 13 – Preservation of natural character will acknowledge the outstanding natural character of the islands and their territorial seas. The Operative Plan seeks to protect these outstanding natural character values through comprehensive and stringent policies and rules. In addition, significant limitations exist for activities that can take place, due to:

- the nature reserve status of the adjacent land of both groups of islands
- the world heritage status of the subantarctic islands and their coastal marine areas.

Accordingly, the assessment remains that the Operative Plan gives effect to policy 15 of the NZCPS 2010, and no changes are considered necessary in that regard.

[43] Resource Management Act 1991, section 6(b).

Access and anchoring

Users of the surface waters of the Kermadec and Subantarctic Islands include:

- tangata whenua
- scientists and other researchers
- DOC operational staff
- other government agencies such as the New Zealand Defence Force, MPI, Earth Sciences NZ (formerly NIWA and GNS Science), New Zealand MetService and Toitū Te Whenua – Land Information New Zealand
- individuals involved in interpretation (that is, photographers or documentary makers)
- recreational yachts

Other users of the surface waters at the Subantarctic Islands include:

- commercial fishing interests (for passage, shelter and fishing in areas that are not marine reserves)
- eco-tourism cruise ship operators.

During implementation of the Operative Plan, DOC and users affected by the Plan have identified that some amendments are needed to address matters of health and safety (of vessels and people), and for the protection of the environment and indigenous biodiversity. The proposed changes to the surface water access and anchoring provisions cover:

- access and anchoring by vessels longer than 125 m to Perseverance Harbour, Campbell Island in the Subantarctic Islands
- access to Port Ross, Auckland Islands in the Subantarctic Islands, when tohorā / southern right whales are present in large numbers for breeding and nursing
- additional anchorages for the scampi fleet in Carnley Harbour, Auckland Islands in the Subantarctic Islands
- use of ancillary craft at all the Kermadec and Subantarctic Islands.

Access and anchoring by vessels longer than 125 m to Perseverance Harbour, Campbell Island, in the Subantarctic Islands

Context

The Operative Plan reduces the risk of navigation safety incidents – and, therefore, the risk of oil spills (and other pollutants) and biosecurity breaches – by controlling access based on vessel length. In the 'Maintenance of biodiversity and biosecurity' section,[44] the Operative Plan explains that vessel length is used as a proxy for numerous factors that influence the risk of a navigation safety incident, such as:

[44] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, p. 22.

- vessel size and propulsion system
- number, type and location of propellers and rudders
- presence and power of bow and/or stern thrusters
- windage of the vessel relative to its power
- age of vessel
- fuel type and volume
- duration of access.

A provision that encompassed all of these factors would be complex and unworkable, so vessel length, as a proxy, is used instead. The Operative Plan has zones of access relative to vessel length that are either permitted (no coastal permit required), discretionary (a coastal permit must be applied for and assessed case by case) or prohibited (no access allowed). The zone inside 300 m from MHWS, as the closest to shore, is the zone of highest risk.

The rationale for the zones based on vessel length is they provide an acceptable level of risk for existing use as a permitted activity where possible. The degree of risk is greatly exacerbated by the remoteness of the islands and the environmental conditions that would hamper any response efforts in the event of an emergency. Managing risk therefore requires a cautious approach.

Access to the internal waters of Perseverance Harbour at Campbell Island by vessels longer than 125 m has been identified as an issue during the implementation of the Plan. The Col Lyall track landing site at the head of the harbour can have up to 200 passengers per day – a limit set in the 2016 Murihiku Conservation Management Strategy.[45] Rule 47 of the Plan prohibits access closer than 600 m from shore[46] for vessels longer than 125 m. This effectively excludes vessels longer than 125 m from accessing Perseverance Harbour, given the width of the harbour.[47]

Through implementation of the Operative Plan since notification in 2011, DOC has reached the view that prohibiting access to Perseverance Harbour by vessels longer than 125 m is blunt and unnecessarily restrictive. In particular, ship building is trending towards larger ships with improved manoeuvring capabilities. DOC considers that it could receive applications for access for vessels longer than 125 m to Perseverance Harbour, that would be assessed case-by-case with expert maritime advice.

L'Austral grounding incident and subsequent actions and advice

In 2016, the French cruise ship company Compagnie du Ponant (Ponant) obtained a coastal permit that allowed their vessels longer than 125 m[48] to access as close as 300 m from MHWS of the Subantarctic Islands. This included access to the internal waters of Perseverance (Campbell Island) and Carnley Harbour (Auckland Islands). Ponant was

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[45] Department of Conservation. Southland Murihiku Conservation Management Strategy.
[46] The shoreline is treated as MHWS.
[47] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Appendix 1, Map 3.
[48] As identified in their coastal permit.

able to apply for this coastal permit because the Plan was not operative at that time and as such, prohibited activities were treated as discretionary activities.[49]

While operating under this coastal permit in 2017, the Ponant cruise ship *L'Austral* collided with an uncharted rock at the Snares Island. The incident occurred closer than 300 m to the shore. This grounding incident breached both the Plan rules (prohibiting a vessel longer than 125 m from accessing closer than 300 m from MHWS) and the coastal permit.

Both DOC and Maritime New Zealand took successful prosecutions against the captain of the *L'Austral*, and DOC prosecuted the company Ponant. DOC also reviewed Ponant's coastal permit and strengthened the permit conditions. Amendments included not allowing access any closer than 600 m from MHWS of all the Subantarctic Islands, except to access Perseverance and Carnley Harbours, and then subject to specific conditions. This coastal permit expired in September 2021.

The Transport Accident Investigation Commission (TAIC) investigated the *L'Austral* grounding incident and recommended that:[50]

> … given the potentially harsh and sensitive environment in the sub-Antarctic Islands, and the likelihood that shipping activity will increase in the future, the Director-General of Conservation appoint a suitably qualified person to manage the safety of navigation in the sub-Antarctic Islands.

Through an open tender process, DOC has contracted the Harbourmaster's Office of Environment Canterbury (ECan) to provide navigation safety services, as the suitably qualified person to manage the safety of navigation of the Subantarctic and Kermadec Islands.

ECan and Maritime New Zealand advised that the suitably qualified person should develop and implement a safety management system for navigation at the islands that applies the New Zealand Port and Harbour Marine Safety Code.[51] The Code provides guidance on the safe management of navigation within waters around Aotearoa New Zealand and has been adopted by all regional councils and port companies in the country. It provides for a collaborative approach that uses skills and competencies across Maritime New Zealand, regional councils and port companies, and, in this case, relevant stakeholders with experience of operating in the waters of the two groups of islands.

In parallel, DOC is working with Ministry of Transport on a legislative change to the Maritime Transport Act 1994 that would allow the Minister of Conservation to appoint a Harbourmaster under Part 3A and to apply other powers available under that part of the Act. The intention is that the contract with ECan will be replaced with a harbourmaster once the Minister can legally appoint one.

In light of the *L'Austral* grounding incident, DOC reconsidered the appropriateness of changing the Plan to allow access close to shore and/or in the internal waters, seeking advice from Maritime New Zealand and ECan. A particular consideration for the advice

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[49] As provided by the Resource Management Act 1991, section 87B(1)(c).

[50] Transport Accident Investigation Commission. 2018. Final Report: Marine inquiry MO-2017-201. Passenger vessel *L'Austral* contact with rock Snares Islands, 9 January 2017. Wellington: Transport Accident Investigation Commission. p. 27.

[51] Port & Harbour Marine Safety Code New Zealand 2020.

was that, until the Maritime Transport Act 1994 is amended, the Minister of Conservation only has recourse to the RMA to manage vessel activities at the Subantarctic and Kermadec Islands.

The advice from ECan is summarised as follows.

- While there is no indication that Rule 47 (prohibiting access by vessels longer than 125 m closer than 600 m) is not appropriate, in some circumstances access to internal waters in Perseverance Harbour[52] for vessels greater than 125 m in length may be acceptable.
- Adopting a zone approach to allow access to the internal waters at Perseverance Harbour by vessels greater than 125 m in length as a discretionary activity could be appropriate, with a managed approach to navigation safety, such as:
    - the promulgation of consented vessel schedules
    - appropriate consent conditions
    - documenting for all visiting vessels how the vessels greater than 125m in length can be expected to navigate/manoeuvre.

ECan did not consider it appropriate to set an upper limit on vessel size in an RMA regional coastal plan. This was because the longevity of regional coastal plans and the long periods between reviews would not provide flexibility to acknowledge changes in vessels and options for safer operations. Allowing for access for vessels greater than 125 m in length as a discretionary activity, without setting an upper limit, would future proof the Plan for when a harbourmaster can be appointed and the tools in the Maritime Transport Act 1994 can be accessed. The two regimes – that is, the access rules in the regional coastal plan, and the harbourmaster role and Maritime Transport Act tools – would be complementary.

Proposed changes to access and anchoring by vessels longer than 125 m to Perseverance Harbour, Campbell Island

The plan change includes a new rule to allow resource consent applications as a discretionary activity (that is, for case-by-case consideration) for access to the entire length of Perseverance Harbour for vessels longer than 125 m, to access and anchor as close as 0.162 nautical miles (300 m) from MHWS. Refer to the proposed redline changes for proposed new Rule 47A (and consequential change to Rule 47).

[52] Note the advice from ECan related to both Carnley Harbour and Perseverance Harbour, however, after considering the morphology, water depths and lack of landing site options for larger cruise ships with more passengers in Carnley Harbour, only increased access to Perseverance Harbour is being progressed in the Plan Change.

Access to Port Ross, Auckland Islands, when southern right whales are present in large numbers for breeding and nursing

Context

Tohorā nō Aotearoa / New Zealand southern right whales (*Eubalaena australis*) were almost hunted to extinction in the waters around Aotearoa New Zealand in the 19th and 20th centuries before whaling was banned. Since then, their threat status has continued to improve, going from 'threatened – nationally vulnerable' in 2013 to 'at risk – recovering' in 2019.[53]

Before whaling, female tohorā / southern right whales used coastal waters around the North and South Islands of Aotearoa New Zealand, and around Auckland and Campbell Islands, for birthing and nursing during winter. Post whaling, no tohorā / southern right whales were reported around mainland Aotearoa New Zealand for nearly four decades (1928–1963), with only remnant populations remaining in the subantarctic. The population has been recovering, and tohorā / southern right whales have been sighted around the mainland every year since 1988. The species had an estimated population of approximately 2,200 whales in 1999–2009 which, while still less than 15 per cent of the pre-whaling population, was increasing at an estimated population growth rate of 5 to 7 per cent per annum.

Surveys in 2011 and 2020 of the entire east coast of the Auckland Islands confirmed that the Port Ross area is currently the only calving and nursing area for tohorā / southern right whales in Aotearoa New Zealand waters.[54] This contributed to the Auckland Islands being declared as a marine reserve and a marine mammal sanctuary (established in 1993) and, in 2020, the International Union for Conservation of Nature declared the Auckland Islands an Important Marine Mammal Area. Breeding female tohorā / southern right whales seek sheltered, nearshore waters during the early life-stages of their calves. They are much more selective than non-calving whales. Researchers do not know why the Port Ross area is so desirable to female tohorā / southern right whales, compared to other comparable coastal areas, but consider this is likely due to its shallow, sheltered aspect.[55] By contrast, Campbell Island does not have cow-calf pairs but is still an important habitat for the whales, and Northwest Bay appears to be particularly significant for subadults and socialising whales.[56]

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[53] Baker CS, Boren L, Childerhouse S, Constantine R, van Helden A, Lundquist D, Rayment W, Rolfe JR. 2019. New Zealand Threat Classification Series 29. New Zealand Threat Classification Series 29. Wellington: Department of Conservation. p. 3.

[54] Carrol EL, 2022 New Zealand southern right whale (Eubalaena australis; Tohorā nō Aotearoa) behavioural phenology, demographic composition, and habitat use in Port Ross, Auckland Islands over three decades: 1998–2021. Polar Biology 45: 1441-1458

[55] Rayment W, Dawson S, Webster T. 2015. Breeding status affects fine-scale habitat selection of southern right whales on their wintering grounds. Journal of Biogeography 42(3): 463–474.

[56] Torres LG, Rayment W, Olavarria C, Thompson DR, Graham B, Baker CS, Patenaude N, Bury SJ, Boren L, Parker G, Carroll E. 2017. Demography and ecology of southern right whales *Eubalaena australis* wintering at sub-Antarctic Campbell Island, New Zealand. Polar Biology 40: 95–106.

In a report on tohorā / southern right whale behaviour, including demographic patterns and habitat use from 1998 to 2021, Carroll et al. conclude that the changes observed are:[57]

> … consistent with a growing population undergoing strong recruitment, not limited by food resources. Continued use of Port Ross by all [southern right whale] demographic classes confirm this as key habitat for [southern right whales] in New Zealand waters, and we support increased enforcement of existing management measures to reduce whale-vessel interactions in this remote subantarctic archipelago.

Zhang et al. (2024) studied the use efficacy of using marine protected areas as a management tool to safeguard marine life from anthropogenic impacts, focusing on tohorā / southern right whales in the waters off Aotearoa New Zealand. Their key findings include [emphasis added]:[58]

> … the whales could still be vulnerable to multiple anthropogenic stressors even when within areas designated for protection. This highlights that marine animals may still be subject to anthropogenic risks even within the [marine protected areas] themselves, and it is therefore not enough to merely assess whether [marine protected areas] sufficiently capture key habitats. Both the areas important to [southern right whales] not currently protected by [marine protected areas] and the regions with high levels of whale-vessel overlap should be prioritized for future monitoring and investigation to support the ongoing recovery of this [southern right whale] population. **In cases such as here, when whales and vessels cannot be fully separated in space and time, the appropriate approach may be to combine MPAs with additional measures, such as speed restrictions or posting watches during transit of high-density whale areas** (…). However, similarly to the need to assess the effectiveness of MPAs post-implementation, **measures such as speed limits or the posting of observers must be monitored and enforced for them to be effective** (…).

Maritime incidents with whales

While positive, the recovery of tohorā / southern right whales does bring some risks to both vessels and whales in the winter months – particularly in the Port Ross area of Auckland Island and Northwest Bay at Campbell Island. This risk increases during periods of poor visibility (such as at night or in poor weather) and for vessels with inadequate watch-keeping for marine mammals.

Scientists report that it is now very difficult to navigate a vessel in a straight line (even at slow speed) through the Port Ross area at the height of the breeding season due to the density of whales. Because over 200 whales can be there at once,[59] this increases the risk of collision, with the possibility of significant injury or death for the whales. Ship-strike is

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[57] Carroll E, Riekkola L, Andrews-Goff V, Baker CS, Constantine R, Cole R, Goetz KK, Harcourt R, Lundquist D, Meyer C, Ogle M, O'Rorke R, Patenaude N, Russ R, Stuck E, van der Reis AL, Zerbini AN, Childerhouse S. 2022. New Zealand southern right whale (*Eubalaena australis*; Tohorā nō Aotearoa) behavioural phenology, demographic composition, and habitat use in Port Ross, Auckland Islands over three decades: 1998–2021. Polar Biology 45: 1441–1458.

[58] Zhang X, Carroll EL, Constantine R, Andrews-Goff V, Childerhouse S, Cole R, Goetz KT, Meyer C, Ogle M, Harcourt R, Stuck E, Zerbini AN, Riekkola L. 2024. Effectiveness of marine protected areas in safeguarding important migratory megafauna habitat. Journal of Environmental Management 368: 122116.

[59] Carroll et al. 2022. See n 57.

a major source of mortality for North Atlantic right whales.[60] Other significant risks include:

- potential injury to people (for example, vessels stopping or slowing suddenly when striking a whale)
- damage to vessels (such as to steering gear, propeller, anchoring equipment, or damage from managing the release of a whale entrapment in anchoring gear), which could lead to grounding and/or fuel spills.

Wildlife will most likely be below the water surface and unseen. Particularly in the event of a collision, the speed of any vessels (including ancillary craft) has potential for significant adverse effects on this wildlife – and associated health and safety risk to vessels and people.

In winter 2018, a vessel had a near-miss incident with a whale becoming entangled in its anchor chain and dragging it. Only quick thinking (and the knowledge they had a spare anchor and anchor chain) prevented serious, life-threatening consequences to the crew and the whale, as described in the following account:[61]

> While anchored in Port Ross in 2018 we were sitting down after dinner one night when we felt a whale give our anchor warp a nudge. This is actually pretty common behaviour, as southern right whales are really curious animals. Normally these encounters end harmlessly, but on this occasion, we felt another, more violent jerk on the anchor warp, and the whole boat moved quite suddenly. The bow of the boat was dragged over again and we were concerned that the whale had become entangled. Grabbing flashlights, we rushed to the bow of the vessel and saw to our horror that the whale had managed to get the warp wrapped around its tailstock, with a half-hitch. We tried paying out additional warp, hoping that the slack would allow the whale to free itself. This didn't work, and with the whale becoming more panicked, we were concerned about the risk to it and our vessel. We decided the only course of action was to cut our anchor warp and drift away. We did this swiftly, and happily the whale was able to quickly free itself. We rigged a temporary anchor for the night and then recovered our original anchor and chain the next day by grappling for it. We were hugely relieved that the whale had avoided serious injury, and the events made us seriously question whether it was safe to anchor in Port Ross during winter.

There are many international examples of maritime risk associated with whales, including right whales. Reported incidents include:[62]

- an incident with a southern right whale off the coast of South Africa in 2010
- an incident with a humpback whale in July 2022 on the Massachusetts coast of the United States

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60 Kraus SD, Brown MW, Caswell H, Clark CW, Fujiwara M, Hamilton PK, Kenney RD, Knowlton AR, Landry S, Mayo CA, McLellan WA, Moore MJ, Nowacek DP, Pabst DA, Read AJ, Rolland RM. 2005. North Atlantic Right Whales in Crisis. Policy Forum Science 309(5734): 561–562.

61 Personal communication, Will Rayment, Otago University research trip in 2018.

62 Donn N. 2022. Second sailing boat sinks after 'interaction with Orcas'. Portugal News. [accessed 12 May 2025]; Kraus et al. 2005. See n 60. Other examples can be found by searching online.

- numerous accounts of incidents with orca off the coast of Spain. In 2020, Spain established a restricted access zone for small vessels in an area used by orcas.[63]

Proposed changes to access to Port Ross, Auckland Islands, when southern right whales are present in large numbers for breeding and nursing

The Operative Plan already places some restrictions on vessel access to Port Ross in winter. Only vessels up to 75 m in length may enter during winter (as a permitted activity) and only subject to conditions such as a bow watch.[64] Vessels undertaking research and management work (as provided for in Rules 38 and 39) are not captured by these restrictions.

DOC considers the existing restrictions are not enough to reduce risks to the tohorā / southern right whales, or to vessels and their crews. Accordingly, the following changes are proposed.

- Amend existing Performance Standard 5 in Table 2 which applies to **Port Ross** between 1 April and 31 October when the whales are present, to apply only to **Rules 38 and 39 (research and management work)** and amend the requirements as follows. Refer to the proposed redline changes to Performance Standard 5. The reworded requirements include:

  (a) No vessel can be longer than 75 metres in length; AND

  (b) No transiting at night, after sunset and before sunrise; AND

  (c) No transiting in reduced visibility, e.g., fog or heavy rain: AND

  (d) A bow watch for whales is kept on vessels entering, transiting and departing; AND

  (e) Chain anchor lines are to be used and additional anchoring gear is carried on the vessel; AND

  (f) Vessel has prevention and response plans in place, including: an entanglement prevention and release plan; a prevention of damage to manoeuvring equipment plan,; and a response in the event of damage to manoeuvring equipment plan; AND

  (g) Vessels shall not exceed a speed of 4 knots.

- Amend Rules 34, 37, 40–43, 46 and 49 to include a new condition restricting access to Port Ross during the period 1 April to 31 October. Refer to the proposed redline changes to add condition B to Rules 34, 37, 40–43 , 46 and 49 and consequential amendments.

- Add a new Performance Standard 6, which will apply to **all vessels** (again between 1 April and 31 October when the whales are present) at **Auckland Islands and Campbell Island**. Refer to the proposed redline addition of Performance Standard 6. The new restrictions include:

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[63] Abuín E. 2020. Small sailboats restricted from sailing between Prioriño and Bares by killer whales. La Voz de Galicia. [accessed 12 May 2025].

[64] Regional Coastal Plan: Kermadec and Subantarctic Islands. See n 1, Performance Standard 5 in Table 2.

(a) Avoid as far as practicable transiting at night, after sunset and before sunrise, and in reduced visibility, e.g., fog or heavy rain, within 0.54 nm (1000m) of MHWS; AND

(b) Keep a bow watch for whales within 0.54 nm (1,000 m) of MHWS; AND

(c) Chain anchor lines are to be used and additional anchoring gear is to be carried on the vessel; AND

(d) Vessel has prevention and response plans in place, including an entanglement prevention and release plan, a prevention of damage to manoeuvring equipment, and response in the event of damage to manoeuvring equipment plan.

- Add a new Note 7 at the beginning of the access and anchoring rules for the Subantarctic Islands, as follows (refer to the proposed redline addition of Note 7):

> The Master of any vessel entering any of the waters of the Subantarctic Islands in the winter months (1 April to 31 October) needs to be aware of increasing numbers of whales around all of the Auckland Islands and Campbell Island (particularly Northwest Bay) as the southern right whale population continues to recover. Travel should be slow and there should be continuous watch for whales. Access to Port Ross is restricted to research and management vessels during that period.

- Amend the footnote under Table 2 by adding 'Performance Standards 5 and 6 do not apply where Rule 1 is being relied on'.

The overarching purpose of these amendments is to manage the risks associated with increased numbers of tohorā / southern right whales at the Subantarctic Islands over the winter months by:

- limiting the categories of vessels that can enter Port Ross (more specifically, the area shown on Map 2 of Appendix 1) over the winter months as a permitted activity to vessels undertaking DOC management or research activities (as provided for in Rules 38 and 39)
- improving the applicable performance standards for those vessels entering Port Ross during the winter months under Rules 38 and 39 (Performance Standard 5), and all vessels accessing Auckland Island and Campbell Island (other than Port Ross) over the winter months under the applicable permitted activity rules (new Performance Standard 6).

These changes only affect the permitted activity rules. Applications for access as a discretionary activity under Rule 50 can be made by:

- vessels involved in research and management work (Rules 38 and 39) that cannot comply with the conditions of the proposed new Performance Standard 5
- any other vessels that want to access Port Ross between 1 April and 31 October
- any vessel that wishes to access within 0.54 nm (1,000 m) of MHWS of the Auckland Islands and Campbell Island between 1 April and 31 October that cannot comply with the conditions of proposed new Performance Standard 6.

In addition to adding the new condition B, amending Performance Standard 5 and introducing Performance Standard 6 will require consequential amendments to the access and anchoring Rules 34, 37, 40–43 and 46 for the subantarctic islands.

Note that the exception to these restrictions is if the captain of the vessel is relying on Rule 1 of the Plan, which permits access in the event of emergency or any other force majeure, or where in the reasonable judgement of the captain, access is required to avoid serious risk to life or to prevent serious damage to the vessels.

Additional anchorages for small vessels in Carnley Harbour, Auckland Island

Context

During the drafting of the Operative Plan, preferred anchorages within 0.162 nm (300 m) of MHWS were identified in consultation with users of the waters – particularly those with smaller vessels that rely on internal waters for sheltered anchorage. The Operative Plan allows anchoring in these locations as a permitted activity. This consultation included companies that regularly have scampi fishing vessels in the fishery adjacent to the Auckland Islands. The scampi fishing vessels are typically less than 45 m long, and most are less than 25 m.

As noted above, vessel length is used as a proxy for numerous factors that can influence the risk of a navigation safety incident. Accordingly, the Operative Plan manages the risk of a navigation safety incident, oil spill (and other pollutants) or biosecurity breach by controlling access based on vessel length.

The zone inside 300 m from MHWS, as the closest to shore, is the zone of highest risk. Given the severe weather conditions that can occur at the Subantarctic Islands, and in light of the remoteness of the area, it is recognised that some circumstances may require smaller vessels to seek shelter.

During initial consultation with fishing industry representatives in August 2020, they identified a need for further anchorages. At that time, the scampi fleet advised that since the Plan became operative in 2017, the number of vessels in the scampi fleet had increased, so the anchorages provided in Carnley Harbour would not be sufficient if all the fleet were to seek to shelter in Carnley Harbour at the same time.

Carnley Harbour provides the closest sheltered waters to the scampi fishing grounds, but the harbour can be strongly affected by wind. Most of the anchorages identified in the Operative Plan provide sheltered anchorage options for the predominant wind conditions. However, the scampi fleet advised that the wind conditions can change from time to time, and there are insufficient anchorage options in north-easterly wind conditions.

Further to the 2020 consultation meeting, in April 2021, the scampi fleet provided written feedback requesting the inclusion of additional anchorages in Carnley Harbour, to provide safe anchorage options in north-easterly wind conditions. The additional anchorages requested, shown in the map in Figure 3, were:

- Round Point
- Fleming Bay
- Crab Bay.

Figure 3. Carnley Harbour map excerpt

In the same feedback, the scampi fleet also requested an additional anchorage in Port Ross – Lookout Point (aka Tucker Point) on the southern side of Port Ross, just before Ocean Island – as shown in the map in Figure 4. No rationale was provided for why this additional anchorage was requested.

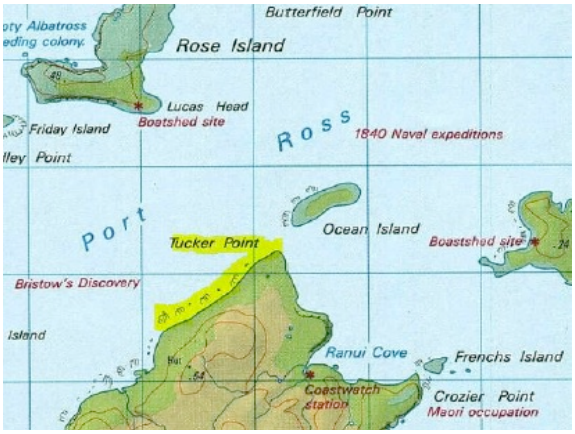

Figure 4. Port Ross map excerpt

In July 2023, DOC sent the scampi fleet a draft discussion document on proposals to amend rules for access to surface waters at the Subantarctic Islands, for pre-statutory discussion. To address the issue raised in 2020 by the scampi fleet about insufficient anchorages in Carnley Harbour, the discussion document suggested establishment of a 'buffer zone' around some of the existing anchorages in Carnley Harbour. The suggested proposal included that such buffer areas should only be available to use:

- when the existing anchorages were at capacity
- on the basis that, as an anchorage empties out, any vessels using the buffer would relocate into the anchorage.

No feedback was received from the scampi fleet on that suggestion, so it has not been carried forward into the current plan change proposals. Instead, DOC will ensure that it is clearly communicated to users of the waters (including the scampi fleet) that beyond the zone 0.16 nm (300 m) from MHWS, anchorage is unrestricted for vessels up to 125 m in length.

Proposed changes to access to address issues raised by the scampi fleet

Plan changes are proposed to increase available anchorage space in Carnley Harbour, Auckland Islands for the Southern Ocean scampi fleet and other small vessels in north-easterly wind conditions. To that end, the Proposed Plan Change provides (as a permitted activity) additional anchorage options by adding anchorages for vessels up to 42 m long at Round Point and Crab Bay. Refer to the proposed redline changes in Rule 42 and on Map 3 in Appendix 1, and the addition of two new chartlets: 9A – Round Point and 9B – Crab Bay.

Below is an outline of how the proposal aligns with the engagement with the fishing industry.

- It is proposed that the anchorage at Round Point be slightly further east than requested by the fishing industry, and slightly past the bay. This is because the area included to the west, towards Figure of Eight Island, is very steeply sloping seabed and not suitable as an anchorage.
- It is not proposed to add the requested anchorage at Fleming Bay, Adams Island, partly because this bay is unlikely to be useful to shelter from a north-easterly wind. More importantly, the Operative Plan deliberately provides no anchorages

at Adams Island, given the pest free status of that island. Adams Island has never had an introduced mammal become established, and it is one of the largest near-pristine islands in the world, outside of the Antarctic and Arctic.

- It is not proposed to add the anchorage at Lookout Point/Tucker Point, Port Ross. The fishing industry did not provide any rationale for requesting this anchorage. Sheltering by the scampi fleet generally takes place in Carnley Harbour, closest to the fishing ground. Sheltering by the scampi fleet is also generally in the winter months. As noted above, it is proposed to close Port Ross to most vessels in the winter months to reduce risks to both the tohorā / southern right whale and to vessels and crew. Although a vessel may seek shelter due to poor conditions at the fishing grounds, it is not necessarily the case that poor conditions exist at the Auckland Islands or internal waters.

Use of ancillary craft at all of the Subantarctic and Kermadec Islands

Context

Rule 40 of the Operative Plan currently provides for unrestricted access by ancillary craft anywhere in the coastal marine area (territorial sea) of the Islands as a permitted activity (subject to there being no scientific research being undertaken, and to compliance with Performance Standards 2, 4 and 5 in Table 2). The Operative Plan defines ancillary craft as tenders, dinghies, zodiacs, canoes, rigid hull inflatable boats and landing craft medium.

This unrestricted access is supported by Policy 13 of the Operative Plan:

> To provide for unrestricted public access to the surface waters of the coastal marine area of the islands by ancillary craft.

Policy 13 and Rule 40 give effect to section 6(d) of the RMA,[65] which states that 'the maintenance and enhancement of public access to and along the coastal marine area' is a matter of national importance. Any restrictions on public access require careful justification.

The Subantarctic Islands are nature reserves and national reserves under the Reserves Act 1977. As such, entry to the Islands (which in practical terms means 'landing') is tightly controlled. Landing is only allowed if an entry permit has been obtained under the Reserves Act. The location of landing sites and numbers of entry permits available are regulated under the Murihiku Conservation Management Strategy.[66]

Cruise ships visiting the Subantarctic Islands tend to be small-scale eco-tourist operators, generally carrying 100 to 200 passengers. Visits involve either viewing the islands up close by sea or landing on the islands themselves.

Historically, there has been occasional interest from large cruise ships (2,000 plus passengers) considering the Subantarctic Islands as a destination. Cruise New Zealand (representing 95 per cent of cruise ships visiting Aotearoa New Zealand) generally deters large cruise ships from visiting the Subantarctic Islands. Instead, the New Zealand

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[65] Resource Management Act 1991, section 6(d).
[66] Conservation Management Strategy: Southland Murihiku 2016. See n 45.

Cruise Association and McKay Shipping Limited suggest they steam offshore of the Snares Islands at dawn or dusk to watch the tītī / sooty shearwater leaving or returning in their millions, and then carry on to other mainland Aotearoa New Zealand destinations.

Tourists are not permitted to land on Snares Islands / Tini Heke, Bounty, Antipodes or the other Auckland Islands (other than Enderby and the main Auckland Island). Cruise ship operators may allow visitors to view these islands from the sea, getting closer to the islands using inflatable dinghies (or zodiacs) with a guide. This activity is known as 'zodiac cruising', and it allows passengers to have a wilderness and wildlife experience without actually landing on the islands.

Where a cruise ship operator does have the required entry permits for landing passengers at landing sites,[67] ancillary craft are used to transfer passengers from the cruise ship to the landing site.

Based on current practice, both zodiac cruising and transfers of passengers to landing sites are typically undertaken close into shore and generally less than 1,000 m but no more than 3,000 m from the cruise ship (the 'mother ship'). The term 'mother ship' is the internationally accepted term for the primary vessel – as opposed to ancillary craft. It will be a new term proposed to be introduced in this plan change.

As already described, the Operative Plan manages the risk of various incidents by controlling vessel access using vessel length as a proxy for numerous risk factors. When developing the Operative Plan, the use of ancillary craft was not considered a navigation safety or oil spill risk. Accordingly, providing unrestricted access for ancillary craft was considered appropriate as a matter of national importance in terms of section 6(d) of the RMA.

More recent times have seen increased interest from cruise ship companies wanting to visit the Subantarctic Islands. Although this has tended to still involve small-sized vessels, the size and passenger capacity of eco-tourism cruise ships have increased.

The Operative Plan specifically regulates vessels longer than 125 m and stipulates that these:

- can only go as close as 0.54 nm (1,000 m) from MHWS without a resource consent (Rule 49 – permitted activity)
- can apply for consent to go as close as 0.324 nm (600 m) from MHWS (Rule 48 – discretionary activity)
- cannot go closer than 0.324 nm (600 m) from MHWS (Rule 47 – prohibited activity)
- can use ancillary craft anywhere within the coastal marine area (Rule 40).

The Conservation Management Strategy has a landing site at the head of Perseverance Harbour, Campbell Island, that allows up to 200 people per day to land and walk the Col Lyall track from Beeman Base to the top of the ridge line overlooking Northwest Bay

[67] Under the Murihiku Conservation Management Strategy, the landing sites at the Subantarctic Islands are at Auckland, Enderby (in the Auckland Islands Group) or Campbell Islands. See n 45.

(and other landing sites with a lower limit of people per day).[68] However, the effect of Rule 47 is that vessels longer than 125 m cannot enter Perseverance Harbour (Campbell Island), due to the width of Perseverance Harbour (a vessel cannot stay more than 0.324 nm (600 m) from MHWS within Perseverance Harbour).

As discussed above, a new rule is proposed that would allow applications to access Perseverance Harbour, as a discretionary activity, to be considered on a case-by-case basis. However, even if this change is progressed, vessels longer than 125 m that are not granted a coastal permit to enter the internal waters could still:

- apply to access as close as 600 m from MHWS (with a coastal permit) outside of Perseverance Harbour
- access as close as 1,000 m as a permitted activity (no coastal permit required), and could use ancillary craft from those points as a permitted activity.

DOC has become concerned about these restrictions and the fact that there are no restrictions on vessel access beyond 0.54 nm (1,000 m) from MHWS. The concern is that this could encourage larger cruise ships (longer than 125 m) to either:

- stay 0.324 nm (600 m) from MHWS (if they have a coastal permit under Rule 48); or
- stay 0.54 nm (1,000 m) from MHWS (as a permitted activity),

and then offload passengers into ancillary craft that travel long distance (further than 1,000 m) from the mother ship, to either take passengers zodiac cruising or to undertake zodiac transfers to access landing sites (assuming they have entry permits).

DOC does not consider long-distance ancillary craft use in the Subantarctic Islands environment to be a low-risk activity. The weather in the Subantarctic Islands can be extreme and it can change fast. Weather conditions can be un-forecast and localised, including strong winds and large swells, both within and outside the harbours and inlets. These factors present significant potential risks for long-distance ancillary craft use – to the environment and to personal health and safety – including:

- health risks to passengers (either on the ancillary craft or onshore if stranded)
- risk of ancillary craft capsizing and associated fuel spill
- the mother ship may be forced to relocate by changing conditions, probably further away from the ancillary craft
- difficulty for ancillary craft to locate the mother ship in low visibility, particularly if the ship has had to move
- inability or difficulty re-embarking passengers, guides and/or crew in rough conditions.

Risks may arise from a specific navigation safety incident or from the circumstances of the vessel activities generally. These risks are increased where ancillary craft have travelled within the internal waters of Perseverance Harbour and the 'mother ship' is

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[68] All landing site daily limits also have an annual limit, as set out in the Murihiku Conservation Management Strategy. See n 45.

restricted from entering those areas (that is, where the mother ship is longer than 125 m and has not been granted a coastal permit in accordance with proposed new Rule 47A). In the event of an incident involving an ancillary craft, even if the mother ship relies on Rule 1 (emergency circumstances in the judgement of the captain) to enter the harbour, there will be distance and time delays in reaching the ancillary craft. The distance from the entrance to the head of Perseverance Harbour is 4 nm (around 7 km), which would take approximately an hour to transit – given the need to plan, brief and execute an anchorage-to-anchorage passage plan. Importantly, access by the mother ship to such areas under challenging environmental conditions also presents heightened risk to the mother ship itself.

A regional coastal plan must give effect to the NZCPS 2010, which has many policies relevant to the consideration of unrestricted ancillary craft access and potential risks, including:

- Policy 3 – Precautionary approach
- Policy 5 – Land or waters managed or held under other Acts
- Policy 11 – Indigenous biological diversity (biodiversity)
- Policy 13 – Preservation of natural character
- Policy 15 – Natural features and natural landscapes
- Policy 18 – Public open space

To give effect to the relevant policies of the NZCPS 2010, Policy 13 and Rule 40 of the Operative Plan need to be amended, to reduce the potential risks associated with long-distance ancillary craft activities.

Policies and rules in the Plan can, and should, complement the safety management system for navigation at the islands that ECan has developed and the harbourmaster functions and regulatory powers once a harbourmaster is able to be appointed.

The proposal is to restrict ancillary craft from being more than 1,000 m from where the mothership is authorised to access. The intention is to minimise potential risks to ancillary craft use, and to avoid heightened risk to the mother ship itself if it were to access restricted areas under challenging environmental conditions by relying on Rule 1.

A second proposed amendment is to restrict ancillary craft from being more than 3000 m from the mother ship in all other areas (that is, areas the mother ship is authorised to access), to allow for zodiac cruising activities within safe limits.

Proposed access changes to minimise risks associated with long-distance ancillary craft trips

Changes to provisions are proposed, to:

- amend Policy 13 to remove the word 'unrestricted' and to address navigation safety issues (refer to the proposed redline changes in Policy 13)
- amend Rules 40 and 56 by adding an additional condition specifying that ancillary craft must not be:
    - more than 0.54 nm (1,000 m) from where the mother ship is authorised to access (in the absence of reliance on Rule 1)

- more than 3,000 m from the mother ship at any time.

Refer to the proposed redline changes in Rules 40 and 56.

- include and define the term 'mother ship' (refer to the proposed redline changes in the Glossary).

Ancillary craft activities that cannot comply with Rules 40 or 56 as amended can apply for a coastal permit as a discretionary activity under other rules.

Part 5. Plan change process to date

Engagement

In accordance with Schedule 1 of the RMA, in developing this Proposed Plan change, DOC has sought and considered comments from:

- iwi authorities
- Ministry for the Environment
- Ministry of Transport
- Maritime New Zealand
- Ministry for Primary Industries (in relation to fisheries management).

DOC has also engaged closely with colleagues in Biosecurity New Zealand and with key stakeholders, including researchers, tourism operators and fishing industry representatives.

This engagement has involved communicating high-level intentions, followed by providing more detailed information in the form of a draft discussion document. This engagement has assisted in refining the proposals. It also revealed some further amendments considered necessary for health and safety of vessels and people, and for and protection of the environment, such as providing additional anchoring options for sheltering for the scampi fishing fleet.

Engagement with iwi authorities

In 2020 and 2021, DOC provided early awareness of the intention to prepare this plan change to tangata whenua for the two groups of islands (Ngāi Tahu ki Murihiku for the Subantarctic Islands, and Ngāti Kuri and Te Aupōuri for Rangitāhua / Kermadec Islands). Since then, DOC has kept tangata whenua up to date on progress through emails, short reports, the discussion document noted above, and online or in-person meetings. Further information about this engagement can be found in Appendices 2–4 of this report.

DOC provided drafts of this section 32 report and a redline version showing the proposed plan changes to the three relevant iwi authorities early in 2025, seeking their advice.[69] Appendix 1 of this report summarises the advice received and DOC's response to that advice on behalf of the Minister.

All three iwi provided support in principle for the plan change, recognising the benefits to the environments and ecosystems, and the narrow scope of the plan change. All three iwi also expressed a strong interest in a full plan review, since the Operative Plan was drafted in 2009–10. The iwi authorities also noted they seek the ability to explore broader plan changes to address the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori.

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[69] In accordance with section 32(4A) of the Resource Management Act 1991.

Consultation with key stakeholders

Appendix 5 of this report provides a summary of consultation with key stakeholders, including the Southern Ocean scampi fishing fleet, eco-tourism operators and researchers. The majority of engagement and feedback relates to the Subantarctic Islands.

Engagement was either through emails, short reports, the discussion document noted above, or online meetings. Most of this feedback was focused on the proposals for change related to access and anchoring, detailed in the discussion document and in the Access and anchoring section above.

Schedule 1 process for the Proposed Plan Change

In conjunction with the preparation of this report, DOC publicly notified the proposed plan change on 24 September 2025, in accordance with Schedule 1 of the RMA. This represents the formal public consultation on the plan change, which involves the public notification of the proposals[70] and the receipt and consideration of public submissions.[71]

Assessment of those submissions will be undertaken immediately following the last date for their receipt. A summary of submissions will be notified, and any further submissions (or cross-submissions) will be called for. [72]

Every person who makes a submission can request to present their views in person to a Hearings Committee (a request to be heard is indicated when making a submission).[73] Because DOC is undertaking the plan change on behalf of the Minister, who has a statutory role of approving regional coastal plans, DOC will appoint an independent Commissioner to hear and decide the submissions. The Commissioner's decisions and recommendations on the matters raised in the submissions will be publicly notified.[74]

If any person who makes a submission on the proposed plan change is dissatisfied with the Commissioner's decision, they may appeal the decision to the Environment Court, which in turn would hold a public hearing into the matter.[75] The Environment Court may direct the Minister (in the Minister's statutory role of approving regional coastal plans) to make amendments to the proposed plan change.[76]

Once any appeals have been resolved, or once the appeal period finishes and there are no appeals on the Commissioner's decisions, the proposed plan change (as amended by the Commissioner's decisions or directions from the Environment Court) will be sent to the Minister for approval.

Note that the RMA allows a local authority to alter information where such alteration is of minor effect, or for the purpose of correcting minor errors, without needing to use the

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70 Resource Management Act 1991, Schedule 1, clause 5.
71 Resource Management Act 1991, Schedule 1, clause 6.
72 Resource Management Act 1991, Schedule 1, clause 7, clause 8 and clause 8A.
73 Resource Management Act 1991, Schedule 1, clause 8B.
74 Resource Management Act 1991, Schedule 1, clause 10.
75 Resource Management Act 1991, Schedule 1, clause 14.
76 Resource Management Act 1991, Schedule 1, clause 15.

Schedule 1 process.[77] Some minor changes of this nature are included in the redline version of the plan showing the proposed changes.

[77] Resource Management Act 1991, Schedule 1, clause 16.

Part 6. Section 32 evaluation of the proposed changes

This section provides the assessment required by section 32 of the RMA,[78] to ensure the proposed changes are appropriate, efficient and effective.

No changes are proposed to the objectives of the Operative Plan. Accordingly, the section 32 evaluation is focused on assessing whether the proposed provisions are the most appropriate way to achieve the existing objectives of the Operative Plan, in accordance with section 32(1)(b) and (c), and section 32(2). Table 2 provides a summary of the proposed changes to provisions in the Operative Plan.

Table 2. Plan changes proposed for Regional Coastal Plan: Kermadec and Subantarctic Islands

Section of the Plan	Details of proposed plan change
Issue description	Issue 1 description – change 'significant natural character' to 'outstanding natural character'
Policies	Amend Policy 13 to better manage risk from ancillary craft activities
Rules	Amend the rules controlling hull and niche area fouling to improve management of the risk of introducing harmful aquatic organisms to the marine environment, with specific changes to: • Performance Standards 2.2 and 2.3 (in Table 1) • Appendix 4 • Appendix 5
	Manage the risks to safety of people and vessels and to tohorā / southern right whales in Port Ross in winter through: • adding a new restriction on access to Port Ross during the winter months (1 April to 31 October) to Rules 34, 37, 40–44 and 46 • changes to Performance Standard 5 (in Table 2) • adding a new Performance Standard 6 (in Table 2) • adding a new note (which will become Note 7) before subantarctic islands access and anchoring rules, warning about increasing numbers of tohorā / southern right whales in Port Ross in winter
	Amend Rules 40 and 56 to add new restrictions on ancillary craft relating to proximity to the mother ship
	Add a new Rule 47A – access to Perseverance Harbour as discretionary activity, with consequential change to Rule 47 activity description
Glossary	Add new definitions for 'algal growth', 'goose barnacle' and 'mother ship'
Appendix 8	Include the Statutory Acknowledgements of Ngāti Kuri and Te Aupōuri

The RMA requires a section 32 report to contain a level of detail that corresponds with the scale and significance of the environmental, economic, social and cultural effects that are anticipated from the implementation of the proposed policies and methods.[79] The scale and significance of effect of each proposal for change varies depending on the

[78] Resource Management Act 1991, section 32.
[79] Resource Management Act 1991, section 32(1)(c).

issue and the change proposed to address it. The context for and summary of the proposed changes are discussed in Part 4. Drivers for proposals for change, and the specifics can be seen in the redline version of the plan showing proposed changes.

For each topic, DOC has evaluated the proposed changes to policy, rules and methods as a package, as, together, they address a particular issue and seek to meet a specific objective. The six tables below (Table 3 to Table 8) identify the options considered to achieve the objectives of the plan and evaluate the efficiency and effectiveness of each of the proposed changes.

The evaluation includes the benefits and costs of implementation of the proposed changes and the reasons for deciding on the provisions.

The benefit/cost assessments are informed by the context outlined above in Part 4. Drivers for proposals for change and supported in different instances by:

- technical reports and research, in some instances
- experiences and learning during implementation of the Operative Plan
- engagement and consultation to date in the development of the Proposed Plan Change.

For the purposes of this report, only the general 'reasonable and practicable' options are captured. In terms of benefits and costs of the proposed changes, the following rating system is applied.

High:	Indicates significant, clear and obvious environmental, economic, social and cultural benefits. Or, conversely, significant clear and obvious implementation and transitional costs to particular parties.
Medium:	Indicates a mixture of benefits and costs with some less obvious net benefits/costs to particular parties.
Low:	Indicates no or poor environmental, economic, social and cultural benefits or, conversely, no or minimal implementation and transitional cost to particular parties.

The assessment of the costs and benefits of the proposed changes, including intangible and non-monetary, involves considering the following broad range of values.

Environmental:	Environmental benefits and costs fall upon ecosystems and natural and physical resources.
Economic:	Economic benefits and costs are those that accrue to the productive economy and are based around economic wellbeing and efficiency considerations and anticipated effects, including opportunities for economic growth and employment.
Social:	Social benefits and costs are those that fall on people and the community. Often these impacts relate to changes in environmental

	and economic conditions and fall in the locality where water is taken from and used. Amenity values of the coast such as swimming, surfing, fishing, and other recreational experiences are included under social benefits and costs.
Cultural:	Cultural benefits and costs are those that relate to historic heritage and the customs, values and beliefs of people and communities. These considerations can be specific or holistic in nature. They often relate to changes in environmental, economic or spiritual conditions.

The RMA requires the section 32(1)(b)(ii) assessment of efficiency and effectiveness to include an assessment of opportunities for economic growth and employment. The relevant economic opportunities for businesses (such as fishing and tourism) are largely vessel based, because:

- the islands are nature reserves and the majority of the coastal marine areas of the islands are marine reserves – both the highest forms of legislative protection in Aotearoa New Zealand statute
- landing on the islands is strictly controlled under conservation legislation.

For the Subantarctic Islands and their coastal marine areas, current economic activity includes:

- fishing, in those areas that are not marine reserves
- using the internal waters or lee of the islands to shelter from bad weather
- eco-tourism that may involve landing passengers at certain sites with the necessary approvals
- occasionally film-making.

In the Southern Ocean (including outside the coastal marine area), both fishing and eco-tourism have limits on growth that are imposed by regulatory regimes outside of the Plan. The fishing industry is subject to the Quota Management System. The tourism activity that includes landing at three islands only in the Subantarctic Islands requires both a concession and entry permits for landings. The Murihiku Conservation Management Strategy sets strict limits on the sites that tourists can visit and the number of landings on each site per day and per year.[80]

Currently there are no economic activities at the Kermadec Islands, where the current focus is research and biosecurity risk management.

The above context and limitations aside, both fishing and tourism activities rely on the biodiversity and ecosystem health at the Subantarctic Islands. This applies to all the proposals for change, so the assessments below do not include further assessment of opportunities for economic growth and employment, but they do consider economic costs and benefits.

[80] Conservation Management Strategy: Southland Murihiku 2016. See n 45.

Table 3. Assessment of proposed changes to better give effect to NZCPS policy 12 and manage vessel biofouling

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Amend Rules 29 and 30 under 'Controls on hull and niche area fouling' via changes to the hull inspection requirements in: • Performance Standards 1.2, 2.2 and 2.3 in Table 1 • Appendix 4 • Appendix 5.	Minister of Conservation	Low	High	The proposed improvements to the vessel hull biofouling inspections are efficient and effective because they will: • improve the rigour and integrity of the hull inspections • give effect to the updated IMO 2023 Biofouling Guidelines • align with the updated MPI CRMS - Vessels (2023) • better address the risk of biofouling in vessel niche areas. The proposed changes will better give effect to policy 12 of the NZCPS 2010 by: • improving the management of the risk of introducing harmful aquatic organisms in vessel hull biofouling • giving better effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The proposed changes also give better effect to policy 13 of the NZCPS 2010 by avoiding adverse effects on areas of outstanding natural character. The proposal to remove the requirement that hull inspections can only be undertaken by inspection	The risk of not acting is that harmful aquatic organisms are released into the coastal marine area of the islands. Not removing the requirement that hull inspections can only be undertaken by inspection providers approved by the Minister will: • create liability risk for the Minister • mean the Plan continues to refer to out-of-date external requirements • fail to align with the MPI approach.

				providers approved by the Minister will be efficient and effective, because it will: • allow better alignment with MPI's requirements for vessels coming into Aotearoa New Zealand • potentially reduce duplication of inspections • remove the now out-of-date health and safety requirements referred to in Appendix 5 of the Operative Plan • avoid referring to requirements that become out of date in the future (instead, like MPI, DOC will rely on increasing the information collected in the inspections, providing more rigour and reliability to the inspection itself, and better managing the risk in niche areas).	
	Resource users	Med	High	The cost of inspections to all resource users may increase, given they would be more comprehensive. However, it is not likely to be a large increase, given the current provisions already require inspections and the proposed changes add more structure to the inspections and collect more information. The inspections can still be done by dive service providers without the need for expensive taxonomic expertise. The proposals will be efficient and effective, because resource users will benefit from: • more certainty in the inspection process • better confidence that the biosecurity risk of their vessel hulls is managed	

				• overall reduction of the risk of introducing harmful aquatic organisms that could adversely effect the coastal marine area resource users rely on. Efficiencies can be gained by removing the requirement that hull inspections can only be undertaken by inspection providers approved by the Minister, including better alignment with the approach undertaken by MPI.	
	Tangata whenua	Low	High	The proposals will be efficient and effective because the changes would result in better management of a key risk. This, in turn, recognises tangata whenua values and relationships with the coastal marine areas of the islands and provides for the protection of taonga species.	
	Community and environment	Low	High	The proposals will be efficient and effective because the community (domestic and international) and the environment will benefit from improved management of the risk of introducing harmful aquatic organisms.	
Option 2: Status quo	Minister of Conservation	Low	Low	The costs would not change. Maintaining the status quo would not be efficient and effective, because it does not address the risk to the extent practicable and therefore does not give best effect to: • policy 12 of the NZCPS 2010 • Objectives 1.1, 1.2 and 1.3 of the Plan	The risk of maintaining the status quo is that harmful aquatic organisms are released into the coastal marine area of the islands.

				• best practice recommended by the IMO and MPI. It would not be efficient and effective to retain the requirement that hull inspections can only be undertaken by inspection providers approved by the Minister, because this: • creates liability risk for the Minister • means the Plan would continue to refer to external requirements that are now out of date • does not align with the approach undertaken by MPI.	Not removing the requirement that hull inspections can only be undertaken by inspection providers approved by the Minister will • create liability risk for the Minister • mean the Plan continues to refer to out-of-date external requirements.
	Resource users	Low	Low	The costs would not change, but it is not efficient and effective because it does not address a key risk to the environment resource users rely on, to the extent practicable.	
	Tangata whenua	Low	Low	The costs would not change, but it is not efficient and effective because it does not address a key risk to the environment to the extent practicable. The status quo therefore could have adverse effects on tangata whenua values and relationships with the coastal marine areas of the islands and taonga species.	
	Community and environment	Low	Low	The costs would not change, but it is not efficient and effective because it does not address a key risk to the environment to the extent practicable, and therefore has potential for adverse effects on the environment and biodiversity.	

Conclusion	The existing regulatory framework in the Operative Plan seeks to reduce the risk of introducing harmful aquatic organisms into the coastal marine area of the islands. Research since 2010 provides a clear consensus that the niche areas of a vessel present the highest risk for growing biofouling and introducing harmful aquatic organisms. The plan change proposes to amend the hull and niche area inspection requirements to better manage the risk in niche areas, and to be consistent with both the CRMS – Vessels (2023) and the IMO 2023 Biofouling Guidelines. The current regime under the Operative Plan: • ensures a vessel has an up-to-date anti-fouling system • sets a high threshold for acceptable levels of fouling • sets timeframes for inspections • includes a protocol for a risk assessment to be undertaken in the event the allowable biofouling threshold cannot be met • includes forms and procedures that must be used • requires the inspection providers to be approved by the Minister. The only changes proposed are to amend the information collected during an inspection and remove the requirement for inspections to be approved by the Minister. No change is proposed for the thresholds of allowable biofouling or the frequency and timing of inspections. The inspections can still be done by dive service providers without the need for expensive taxonomic expertise, while adding more rigour and reliability to the inspection, and better managing the risk, including in niche areas. The RMA requires regional coastal plans to give effect to the NZCPS. Policy 12 of the NZCPS 2010 requires plans to 'as far as practicable' control activities in or near the coastal marine area that could have adverse effects on the coastal environment by causing harmful aquatic organisms to be released or otherwise spread, including through 'the discharge or disposal of organic material from dredging, or from vessels and structures, whether during maintenance, cleaning or otherwise'. Giving better effect to policy 12 of the NZCPS 2010 by better managing the risk of introducing harmful aquatic organisms in vessel hull biofouling, including niche areas, gives effect to Objectives 1.1, 1.2 and 1.3 of the Plan. In doing so, it also gives effect to policy 13 of the NZPCS 2010, by avoiding adverse effects on areas of outstanding natural character.

Table 4. Assessment of proposed changes to better give effect to NZCPS policy 13

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Amend Issue 1 description by changing references to 'significant natural character' to instead read 'outstanding natural character'.	Minister of Conservation	Low	High	The proposed change is efficient and effective because it to gives clear, full effect to policy 13 of the NZCPS 2010 (Preservation of natural character), with no risk of ambiguity. In doing so, it gives better effect to Objectives 1.1, 1.2 and 1.3 of the Plan, which are: • to preserve natural character • to only enable use that is consistent with the preservation of natural character • to protect indigenous biodiversity by avoiding adverse effects of activities on indigenous flora and fauna.	The risk of not acting is perpetuating potential confusion, and possible costly challenge to the fact that the coastal marine areas of all the islands are of outstanding natural character.
	Resource users	Low	High	The proposed change is efficient and effective because it will 'tidy up' the Issue description and ensure no confusion arises due to the current language reflecting the language in the NZCPS 1994. This will provide more clarity in resource consent processes.	
	Tangata whenua	Low	High	The proposed change is efficient and effective because it recognises tangata whenua values and relationships with the coastal marine areas of the islands, and it recognises and provides for the protection of taonga species.	

	Community and environment	Low	High	The proposed change will clarify messaging, creating clear consistency with NZCPS 2010 and with Objectives 1.1, 1.2 and 1.3 of the Plan.	
Option 2: Status quo	Minister of Conservation	Low	Low	Maintaining the current wording in the Issue 1 description will not provide certainty that the coastal marine areas of the islands are of outstanding natural character.	The risk of maintaining the status quo is perpetuating potential confusion, and possible costly challenge to the fact that the coastal marine areas of the islands are of outstanding natural character.
	Resource users	Low	Low	Maintaining the current wording in the Issue 1 description will not provide certainty that the coastal marine areas of the islands are of outstanding natural character.	
	Tangata whenua	Low	Low	The status quo could risk adverse effects on the values of the islands and their coastal marine areas and taonga species, in the event of a challenge to the coastal marine areas of the islands being of outstanding natural character.	
	Community and environment	Low	Low	The status quo could risk adverse effects on the values of the islands and their coastal marine areas and taonga species, in the event of a challenge to the coastal marine areas of the islands being of outstanding natural character.	
Conclusion	The Plan's overarching policy framework is centred on the fact that all of the islands and their entire territorial seas are of 'exceptional' natural character, and that that natural character must be preserved. This is reflective of the international significance of the islands and their marine environments, and the dependence on the interconnectedness of the terrestrial and marine environments by a large number of endemic and taonga species. It also reflects that the majority of the marine environments of the islands are marine reserves.				

	The RMA requires regional coastal plans to give effect to the NZCPS. At the time the Operative Plan was being drafted, DOC ensured that it gave effect to the NZCPS 1994. Therefore, the Plan uses the term 'significant natural character'. DOC assessed the draft Operative Plan against the NZCPS 1994 and the later NZCPS 2010 before notification in 2011. DOC concluded the intent and effect of the Plan was consistent with both, in spite of some wording differences (like the use of 'significant' rather than 'outstanding'). However, case law since that time has put a spotlight on the importance of policy 13 of the NZPCS 2010 and the hierarchy it contains, including the requirement 'must avoid' adverse effects on areas of outstanding natural character. The proposed amendment will provide certainty and clarity in the Plan's overarching policy framework and give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.

Table 5. Assessment of proposed changes to allow access and anchoring by vessels longer than 125 m to Perseverance Harbour, Campbell Island

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Include new Rule 47A for vessels longer than 125 m to access Perseverance Harbour as a discretionary activity, and make a consequential change to the activity description of Rule 47.	Minister of Conservation	Low	High	The Operative Plan seeks to reduce the risk of navigation safety incidents (and therefore the risk of oil spills and other pollutants and associated biosecurity breaches) by controlling access based on vessel length and zones based on distance from MHWS. Vessel length is used as a proxy for the many factors that influence the risk of a navigation safety incident. This is a precautionary approach adopted to give effect to Objectives 1.1, 1.2 and 1.3 of the Plan, given the degree of risk is greatly exacerbated by the remoteness of the islands and the environmental conditions that would hamper any response efforts in the event of an emergency.	The risk of not acting is that the blunt blanket prohibition for vessels longer than 125 m accessing the landing site at Perseverance Harbour does not benefit from the integrated approach to the management of navigation safety, because it would not allow for expert

Note – this is specific to the Subantarctic Islands.				Rule 47 currently prohibits vessels longer than 125 m from access closer than 600 m (0.324 nm) from MHWS. This prevents vessels longer than 125 m from accessing Perseverance Harbour, given the width of the harbour. The Col Lyall track landing site at the head of the harbour can have up to 200 passengers land per day. It is a key landing site for tourist visits in the Subantarctic Islands. In 2022, DOC contracted ECan's Harbourmaster's Office to manage navigation safety at the Kermadec and Subantarctic Islands. The Harbourmaster's Office developed a safety management system (SMS) for navigation at the two groups of islands by applying the New Zealand Port and Harbour Maritime Safety Code and is now implementing that SMS. DOC is seeking legislative change to the Maritime Transport Act 1994, to enable the Minister to appoint a harbourmaster for the two groups of islands. With the navigation SMS in place and ongoing technical support and expertise of the ECan Harbourmaster's Office, all applications for access under this proposed new rule would have rigorous navigation safety assessment and appropriate conditions imposed. In addition, the SMS requires the promulgation of consented vessel schedules, updated as necessary throughout the summer tourism season. Through the SMS, the Harbourmaster's Office can document and share with other vessels how the vessels greater than 125 m in length can be expected to navigate and manoeuvre. With the SMS in place	navigation safety assessment.

				and the ongoing input of navigation safety expertise, the precautionary approach of the blanket prohibition in Rule 47 is not so critical. This integrated approach between the SMS, the ECan Harbourmaster's Office and the Plan provisions will be efficient and effective and continue to give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	
	Resource users	Low	High	Resource users wishing to access Perseverance Harbour in a vessel longer than 125 m will have the cost of a resource consent application, but that is no change to the provisions in the Operative Plan that require a resource consent for such vessels to access as close as 600 m (0.324 nm) from MHWS. The proposal will be efficient and effective for resource users by allowing case-by-case consideration of applications, rigorous assessment of navigation safety factors, and the imposition of effective conditions to manage navigation safety risk. The complementary approach between the SMS, ECan's Harbourmaster's Office and the Plan provisions will continue to give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	
	Tangata whenua	Low	High	The proposal will be efficient and effective because the change will allow case-by-case consideration of applications from operators with vessels longer than 125 m wanting to access Perseverance Harbour. The integrated approach between the SMS, ECan's Harbourmaster's Office and the Plan provisions will be efficient and effective to manage the risk of navigation safety incident and continue to give effect to	

				Objectives 1.1, 1.2 and 1.3 of the Plan. Managing the navigation safety risk in this coordinated way reduces risk to the islands, the coastal marine area and taonga species, thereby continuing to provide for tangata whenua values and relationships with the coastal marine areas.	
	Community and environment	Low	High	The proposal will be efficient and effective for the community (domestic and international) and the environment because risk to the environment will be managed by the integrated and complementary approach to management of navigation safety risk (and therefore risk of oil spill and biosecurity breach) of the SMS, ECan's Harbourmaster's Office expertise and the Plan provisions for the management of navigation safety. This integrated approach will continue to give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	
Option 2: Status quo	Minister of Conservation	Low	Low	The costs would not change, but it is not efficient and effective, because it does not recognise and benefit from the integrated approach to the management of safety, between the SMS, ECan's Harbourmaster's Office and the Plan provisions.	The risk of maintaining the status quo is that the blunt blanket prohibition for vessels longer than 125 m accessing the landing site at Perseverance Harbour does not benefit from the integrated approach to the management of navigation safety, and
	Resource users	Low	Low	The costs would not change, but it is not efficient and effective, because it does not recognise and benefit from the integrated approach to the management of safety, between the SMS, ECan's Harbourmaster's Office and the Plan provisions.	

	Tangata whenua	Low	Low	The costs would not change, but it is not efficient and effective, because it does not recognise and benefit from the integrated approach to the management of safety, between the SMS, ECan's Harbourmaster's Office and the Plan provisions.	would not allow for case-by-case expert navigation safety assessment.
	Community and environment	Low	Low	The costs would not change, but it is not efficient and effective, because it does not recognise and benefit from the integrated approach to the management of safety, between the SMS, ECan's Harbourmaster's Office and the Plan provisions.	
Conclusion	The Plan reduces the risk of navigation safety incidents, and therefore the risk of oil spills and other pollutants (and associated biosecurity breaches) by controlling access based on vessel length (as a proxy for multiple risk factors) and zones based on distance from MHWS. This is a precautionary approach in light of risk being exacerbated by the remoteness of the islands and the environmental conditions that would affect emergency response efforts. The effect of Rule 47 is that vessels larger than 125 m are prohibited from entering both Perseverance and Carnley Harbours. At the head of Perseverance Harbour, however, is landing site that allows up to 200 people per day to land (with the necessary entry permits). This was certainly a sound approach before DOC contracted ECan's Harbourmaster's Office to manage navigation safety at the two groups of islands in 2022. There is now an integrated approach in place for the management of navigation safety at the Subantarctic Islands (and the Kermadecs), between the SMS, ECan's Harbourmaster's Office and the Plan provisions. As such, the precautionary approach of the blanket prohibition in Rule 47 is not so critical for Perseverance Harbour, but it will remain in place for all other parts of the Subantarctic Islands. In addition, the SMS requires the promulgation of consented vessel schedules, updated as necessary through the summer tourism season. Through the SMS, the Harbourmaster's Office can document and share with other vessels how the vessels longer than 125 m can be expected to navigate and manoeuvre. This practice is now in place. The proposed new rule would adopt a zone approach to access to the internal waters at Perseverance Harbour by vessels longer than 125 m as a discretionary activity that would have rigorous navigation safety assessment and				

	appropriate conditions imposed. This integrated approach between the SMS, ECan's Harbourmaster's Office and the Plan provisions will be efficient and effective, and will continue to give effect to Objectives 1.1, 1.2 and 1.3.

Table 6. Assessment of proposed changes to access to Port Ross, Auckland Islands when tohorā / southern right whales are present in large numbers for breeding and nursing

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Amend provisions relating to access to Port Ross in winter, when tohorā / southern right whales are present in large numbers for breeding and nursing – to reduce risk to vessels and people and injury to the whales.	Minister of Conservation	Low	High	The proposed changes are an efficient and effective way to restrict access and give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. While the proposal reduces the scope of the permitted activity rules, the Plan will still provide for case-by-case applications for coastal permits to be made and assessed on their merit and proposed risk management. Researchers report that the tohorā / southern right whale population that uses the Subantarctic Islands are continuing to recover in number and use more of the waters around the islands. Although the largest density of breeding and nursing cows and calves remains in Port Ross, increasing numbers of whales are being seen all around the Auckland Islands – particularly the northern coastline of Auckland and Enderby Islands, and at Campbell Island (particularly Northwest Bay). As their numbers continue to recover and grow, tohorā /	The risk of not acting is that the Plan will not address the risk to vessels and people and risk of injury to tohorā /southern right whales when the whales are present in Port Ross in winter in large numbers for breeding and nursing.

				southern right whales will change their habitat use and behaviour. The Plan needs to take account of this and how risks can be avoided. The proposed changes strengthen the current restrictions, by: • restricting access as a permitted activity to Port Ross when the tohorā / southern right whales are present to vessels involved in research and management work (subject to updated performance standards) • imposing conditions on access within 0.54 nm (1,000 m) at the other parts of the Auckland Islands and Campbell Island during the winter months. The proposal is to restrict access to Port Ross in winter months 1 April to 30 October when the tohorā are present in large numbers, and include warnings in the Plan for users of the coastal marine area in winter. Only vessels involved in research or management work will have access to Port Ross in winter as a permitted activity, subject to amended restrictions in Performance Standard 5 of Table 2. Anyone wanting to undertake research or management work that cannot meet the restrictions in that performance standard could apply for a discretionary resource consent. Other resource users that want to access Port Ross in winter could apply for a discretionary resource consent.	

				The proposal is to add a new Performance Standard 6 in Table 2 imposing conditions for access to Auckland and Campbell Islands generally in the winter months. Again, if a resource user cannot comply with the requirements of that Performance Standard , they could apply for a discretionary resource consent. Note that Rule 1 of the Plan provides for access and anchoring in the coastal marine area in emergency circumstances or when, in the reasonable judgement of the captain of the vessel, access is necessary to avoid serious risk to life or health or to repair or prevent serious damage to the vessel (subject to the conditions of Rule 1). In those circumstances, Rule 1 would override these restrictions to Port Ross.	
	Resource users	Med	High	The proposed change would affect resource users who are not carrying out research and management work that complies with Performance Standard 5 in Table 2, but who wish to access Port Ross in the winter months. Such resource users would need to apply for a discretionary resource consent and be subject to the costs associated with an application (other than access in emergency circumstances as provided for under Rule 1 of the Plan). The proposal is an efficient and effective way to restrict access and protect the tohorā / southern right whales, giving effect to Objectives 1.1, 1.2 and 1.3, while providing for case-by-case applications to be made.	

	Tangata whenua	Low	High	There would be no cost unless tangata whenua need to apply for a resource consent as a resource user to access Port Ross in the winter months. The proposal is an efficient and effective way to restrict access and protect the tohorā / southern right whales, giving effect to Objectives 1.1, 1.2 and 1.3, while providing for case-by-case applications to be made. The proposal recognises tangata whenua values and relationships with the coastal marine areas of the islands and provides for the protection of taonga species. There may be a financial cost to tangata whenua, however, if they want to access Port Ross in the winter months and need to apply for a coastal permit. Limiting the breadth of the permitted activity rules for access to Port Ross will impose a cultural cost on Ngāi Tahu ki Murihiku if their activities do not fall within the conditions of those rules, as amended, and they need to apply for a resource consent. However, the ability to apply for consent remains an option, and broader changes to the Plan that capture the values of tangata whenua, including the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori can be fully explored in the full plan review.	

	Community and environment	Low	High	The proposal is an efficient and effective way to restrict access and protect the tohorā / southern right whales, giving effect to Objectives 1.1, 1.2 and 1.3, while providing for case-by-case applications to be made.	
Option 2: Status quo	Minister of Conservation	High	Low	Maintaining the status quo allows the risk of adverse effects to continue, including injury to the tohorā / southern right whales, and to people and vessels, with the potential for incident and oil spill. This would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	The risk of maintaining the status quo is that the Plan will not address the risk to vessels and people and risk of injury to tohorā /southern right whales when the whales are present in Port Ross in winter in large numbers for breeding and nursing.
	Resource users	High	Low	Maintaining the status quo allows the risk of adverse effects to continue, including injury to the tohorā / southern right whales, and to people and vessels, with the potential for incident and oil spill. This would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	
	Tangata whenua	High	Low	Maintaining the status quo allows continued risk of adverse effects on the values of the islands and their coastal marine areas and taonga species.	
	Community and environment	High	Low	Maintaining the status quo allows continued risk of adverse effects on the values of the islands, including their outstanding natural character, coastal marine areas, and indigenous flora and fauna and taonga species.	

Conclusion	The population of tohorā / southern right whales has been steadily increasing. Surveys in 2011 and 2020 of the Auckland Islands have confirmed that Port Ross is currently the only calving and nursing area for southern right whales in Aotearoa New Zealand waters. Over 200 whales can be in Port Ross at once. Although positive, the recovery of tohorā / southern right whales does bring risk to people and vessels and to the whales when they are present in Port Ross, in particular in the winter months. As numbers of tohorā / southern right whales increase, so does their use of other areas of Auckland and Campbell Islands generally. There is real risk of significant injury or death to the whales from collision, and a significant risk to vessels and potential injury to people which, in extreme cases, could lead to grounding and/or fuel spills. The proposed changes to the Plan take into account the recovering population of tohorā / southern right whales and how risks to the whales, people and vessels can be avoided. The proposal is an efficient and effective way to restrict access and give effect to Objectives 1.1, 1.2 and 1.3 of the Plan, which are to: • preserve natural character • only enable use that is consistent with the preservation of natural character • protect indigenous biodiversity by avoiding adverse effects of activities on indigenous flora and fauna. The proposed changes will still provide for case-by-case applications to be made. DOC has looked closely at the detailed advice provided by Ngāi Tahu ki Murihiku on Performance Standards 5 and 6 and what those Performance Standards mean for the access and anchoring of vessels, and particularly for Ngāi Tahu in the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori. DOC does not consider that the changes sought by Ngai Tahu ki Murihiku are appropriate in Rule 39 (a permitted activity for non-DOC commissioned research). DOC considers that broader changes are required to address the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori, which are beyond the intended scope of this Plan Change but can be fully explored in a full plan review. In the meantime, DOC acknowledges that this may impose a cultural cost on Ngāi Tahu ki Murihiku if their activities do not comply with the conditions of the permitted activity Rule 39 and they need to apply for a resource consent.

Table 7. Assessment of proposed changes to access to address issues raised by the Southern Ocean scampi fishing fleet

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Add additional anchorages for small vessels (including the scampi fleet) in Carnley Harbour	Minister of Conservation	Low	High	The Operative Plan provides for identified anchorages within 0.162 nm (300 m) of MHWS for smaller vessels, as a permitted activity. These are used by scampi fishing vessels that are typically around 25 m long and can be up to 42 m, which fish adjacent to Auckland Islands (outside the coastal marine area). These vessels rely on the internal waters for sheltered anchorage in rough weather. The proposal is to include two new anchorages for use in north-easterly wind conditions. The proposal is efficient and effective, because it provides for health and safety of vessels and people and reduces the risk of navigation safety incident that could result in oil spill and associated biosecurity breach. In doing so, it gives effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	The risk of not acting is the potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach.
	Resource users	Low	High	The additional anchorage options were requested by the scampi fishing fleet. The proposal is efficient and effective in providing for the health and safety of the vessels and crew, while minimising risk to the environment and natural character.	

				The request from the scampi fleet included two other locations as anchorages that have not been accepted in the plan change, for the following reasons. • Fleming Bay of Adams Island is unlikely to be useful to shelter from a north-easterly wind. Adams Island has never had an introduced mammal become established and is one of the largest near-pristine islands in the world outside of the Antarctic and Arctic. • No rationale was provided for the inclusion of an anchorage at Tucker Point, Port Ross. To add an anchorage there would be contrary to the proposed changes to close Port Ross to most vessels in the winter months to reduce risks to tohorā / southern right whales and to vessels and crew.	
	Tangata whenua	Low	High	The proposal is efficient and effective in providing for the health and safety of the vessels and crew, while minimising risk to the environment and natural character. The proposal recognises tangata whenua values and relationships with the coastal marine areas of the islands, including the protection of taonga species.	
	Community and environment	Low	High	The proposal is efficient and effective in providing for the health and safety of the vessels and crew, while minimising risk to the environment and natural character. The proposal also gives effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	

Option 2: Status quo	Minister of Conservation	High	Low	Not providing the additional anchorage options leaves unmanaged risk of potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach. This would be at significant cost to life, property and the environment and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for vessels and people), and for the protection of the environment and indigenous biodiversity.	The risk of maintaining the status quo is the potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach.
	Resource users	High	Low	Not providing the additional anchorage options leaves unmanaged risk of potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach. This would be at significant cost to life, property and the environment and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for vessels and people), and for the protection of the environment and indigenous biodiversity.	
	Tangata whenua	High	Low	Not providing the additional anchorage options leaves unmanaged risk of potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach. This would be at significant cost to life, property and the environment and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	

				The amendments are considered necessary to address matters of health and safety (for vessels and people), and for the protection of the environment and indigenous biodiversity, including taonga species. Not addressing the risk would fail to recognise tangata whenua values and relationships with the coastal marine areas of the islands.	
	Community and environment	High	Low	Not providing the additional anchorage options leaves unmanaged risk of potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach. This would be at significant cost to life, property and the environment and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for vessels and people), and for the protection of the environment and indigenous biodiversity.	
Conclusion	The proposal is efficient and effective because it addresses an unmanaged risk of potential for navigation safety incidents that risk human life and damage to vessels, which could also involve oil spill and biosecurity breach. If a navigation safety incident was to occur, it would likely be at significant cost to life, property and the environment. The amendments are considered necessary to address matters of health and safety (for vessels and people) and for the protection of the environment and indigenous biodiversity. In doing so, it gives effect to Objectives 1.1, 1.2 and 1.3 of the Plan, which are to: • preserve natural character • only enable use that is consistent with the preservation of natural character • protect indigenous biodiversity by avoiding adverse effects of activities on indigenous flora and fauna.				

Table 8. Assessment of proposed changes to access to minimise risks associated with long-distance ancillary craft trips

ASSESSMENT OF BENEFITS AND COSTS					Risk of not acting
Policy options	Efficiency and effectiveness				
	Parties	Costs	Benefits	Discussion	
Option 1: Amend Policy 13, to provide for public access to the surface waters of the islands by ancillary craft in a manner that addresses the need for navigation safety, thereby reducing the risk of an incident resulting in an oil spill, or other pollution risks. Amend Rules 40 and 56 to include new restrictions on ancillary craft relating to proximity to the mother ship.	Minister of Conservation	Low	High	This proposal seeks to address a navigation safety risk from long-distance zodiac activities that pose risks to human life and could involve oil spill and biosecurity breach. The weather at the Kermadec and Subantarctic Islands can be extreme – fast-changing, un-forecast and localised – including strong winds and large swells. At the Subantarctic Islands these weather conditions can occur both within and outside the harbours and inlets (there are no harbours or inlets at Kermadec Islands). These factors therefore present significant potential risks for long-distance ancillary craft use. Introducing controls on ancillary craft activities to mitigate this risk will give effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	The risk of not acting is the potential for navigation safety incidents that risk human life and damage to ancillary craft, which could also involve oil spill and biosecurity breach.
	Resource users	Low	High	The proposal is efficient and effective in providing for health and safety (of ancillary craft and people), while minimising risk to the environment and natural character of the islands. Introducing controls on zodiac activities to mitigate risk will give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. Although the proposal may constrain some activities of cruise ship operators, they will be able to apply for	

				resource consent, which would allow case-by-case assessment and the imposition of conditions to minimise risk.	
	Tangata whenua	Low	High	The proposal is efficient and effective in providing for health and safety (of ancillary craft and people), while minimising risk to the environment and natural character of the islands. In doing so, the proposal recognises tangata whenua values and relationships with the coastal marine areas of the islands, including the protection of taonga species.	
	Community and environment	Low	High	The proposal is efficient and effective in providing for health and safety (of ancillary craft and people), while minimising risk to the environment and natural character of the islands, and giving effect to Objectives 1.1, 1.2 and 1.3 of the Plan.	
Option 2: Status quo	Minister of Conservation	High	Low	Not introducing controls on ancillary craft activities leaves unmanaged risk of potential for navigation safety incidents that risk the health and safety of people, damage to ancillary craft and potential oil spill and biosecurity breach. This would be at significant cost to life, property and the environment, and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for ancillary craft and people), and for the protection of the environment and indigenous biodiversity.	The risk of maintaining the status quo is the potential for navigation safety incidents that risk human life and damage to ancillary craft, which could also involve oil spill and biosecurity breach.
	Resource users	High	Low	The status quo does not restrict ancillary craft movements, but it leaves unmanaged risk of	

				potential for navigation safety incidents that risk the health and safety of people, damage to ancillary craft and potential oil spill and biosecurity breach. This would be at significant cost to life, property and the environment, and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for ancillary craft and people), and for the protection of the environment and indigenous biodiversity.	
	Tangata whenua	High	Low	Not introducing controls on ancillary craft activities leaves unmanaged risk of potential for navigation safety incidents that risk the health and safety of people, damage to ancillary craft and potential oil spill and biosecurity breach. This would be at significant cost to life, property and the environment, and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for ancillary craft and people), and for the protection of the environment and indigenous biodiversity, including taonga species. Not addressing the risk would not recognise tangata whenua values and relationships with the coastal marine areas of the islands.	
	Community and environment	High	Low	Not introducing controls on ancillary craft activities leaves unmanaged risk of potential for navigation safety incidents that risk the health and safety of people, damage to ancillary craft and potential oil spill and biosecurity breach. This would be at	

				significant cost to life, property and the environment, and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for ancillary craft and people), and for the protection of the environment and indigenous biodiversity.	
Conclusion	The Plan manages the risk of navigation safety incidents, oil spill (and other pollutants) and biosecurity breaches by controlling vessel access using vessel length as a broad-brush proxy for numerous factors that influence risk. When developing the Plan, the use of ancillary craft was not considered a navigation safety or oil spill risk. Long-distance zodiac activities were not anticipated. Accordingly, Policy 13 and Rule 40 provided unrestricted access for ancillary craft, which was considered appropriate as a matter of national importance in terms of section 6(d) of the RMA. Not introducing controls on ancillary craft activities leaves unmanaged risk of potential for navigation safety incidents that risk the health and safety of people, damage to ancillary craft and potential oil spill and biosecurity breach. This would be at significant cost to life, property and the environment and would not give effect to Objectives 1.1, 1.2 and 1.3 of the Plan. The amendments are considered necessary to address matters of health and safety (for ancillary craft and people), and for the protection of the environment and indigenous biodiversity. The effect of the proposed changes to Policy 13 and Rules 40 and 56 is to limit the distance ancillary craft can be from the mother ship. The aim of the proposal is to reduce the risks to ancillary craft, their passengers and the environment, and to the mother ship itself, by removing the need for it to access areas it is not authorised to enter. The proposal will be efficient and effective to mitigate the risk posed by long-distance ancillary craft activities and, in doing so, give effect to Objectives 1.1, 1.2 and 1.3 of the plan, which are to: • preserve natural character • only enable use that is consistent with the preservation of natural character • protect indigenous biodiversity by avoiding adverse effects of activities on indigenous flora and fauna.				

Part 7. Summary of findings and conclusion

This evaluation identifies the key resource management issues for the sustainable management of the coastal marine areas of the Kermadec and Subantarctic Islands, as identified to the Minister prior to approval of the Operative Plan and during its implementation to date. This report evaluates the efficiency and effectiveness of proposals for change to one policy, and to several rules and other methods to address those issues.

The evaluation concludes that the proposals for change to Policy 13 and the rules and other methods:

- are consistent with the purpose of the RMA
- give effect to the NZCPS 2010
- give effect to the objectives of the Operative Plan.

This conclusion takes into account the outstanding natural character of the islands, their international significance, remote location and the degree of protection they have already under conservation legislation.

In terms of the access and anchoring provisions, the evaluation identifies some costs that will be imposed on users of the coastal marine areas of the islands – namely, costs associated with developing applications and processing coastal permits, if they are required, and some operational and cultural costs as set out above. The benefit of these changes is improved navigation safety, including health and safety of people and vessels and tohorā southern right whales, and therefore reduced risk of impacts such as pollution of the environment and associated biosecurity breaches.

In terms of the changes to the biofouling provisions, there are potential cost increases associated with fulfilling the additional information requirements for vessel hull and niche area inspections.

However, the evaluation has also identified some benefits:

- for the environment, through better management of the risk of introducing harmful aquatic organisms (marine pests)
- to users, because the inspection information being collected will:
    - be more consistent with MPI requirements
    - provide better confidence for their own management of vessel hull and niche area maintenance.

Overall, the evaluation has concluded that the consequences of a navigation safety incident and/or biosecurity breach outweigh the identified costs to users of the coastal marine area.

All three iwi authorities expressed interest in revisiting how the Plan captures the values of tangata whenua, including the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori. DOC considers that would require broader changes that are beyond the intended scope of this plan change, but which can be fully explored in the next full plan review.

Appendices

Appendix 1: Summary of advice from iwi authorities and the Minister of Conservation's response

Section 32(4A) of the RMA requires this evaluation report to summarise:

- all advice concerning the proposed plan change received from iwi authorities
- DOC's response on behalf of the Minister of Conservation
- provisions in the Proposed Plan Change that give effect to that advice.

In accordance with section 32(4A) and Schedule 1, clause 4A of the RMA, drafts of this section 32 report and a redline version of the Proposed Plan Change were sent to the relevant iwi authorities: Ngāti Kuri, Te Aupōuri and Ngāi Tahu ki Murihiku.

Summaries of engagement with those iwi authorities during the development of the Proposed Plan Change between 2020 and 2024 are in Appendices 2, 3 and 4. Consultation with iwi authorities will continue to occur throughout the Schedule 1 plan change process.

Table 9. Summary of advice from iwi authorities and DOC response pursuant to section 32(4A) of the RMA

Advice from Ngāti Kuri				
Who	What	When	Advice	DOC response on behalf of the Minister of Conservation
Ngāti Kuri	Advice on a draft section 32 report and draft Proposed Plan (redline and strike-out)	26/02/25	Ngāti Kuri provided in-principle support for the proposed plan changes which are summarised as: • matters of biosecurity and mitigating the risks of releasing harmful aquatic organisms • description changes from 'significant' to 'outstanding' natural character to preserve and protect the natural character and the	DOC thanks Ngāti Kuri for their recognition and support of what the plan change seeks to achieve. The Plan will be due for a full review from September 2027. Issue 2 of the Plan recognises: • it is a matter of national importance under section 6 of the RMA, in promoting sustainable management, to recognise and provide for the

			indigenous biodiversity and avoid any adverse impacts on indigenous flora and fauna • navigation and safety issues concerning risk to vessels, people and tohorā / southern right whales Ngāti Kuri raised for consideration that the following matters be recognised and acknowledged. • Reference to Wai 262 and the protection of rangatiratanga, kaitiakitanga and mātauranga tuku iho • Ngāti Kuri Statutory Acknowledgement (as per the settlement legislation) • Ngāti Kuri Iwi Environmental Plan Ngāti Kuri also requested a full review of the Plan, given the last review was in 2017 and appears to have taken 7 years to land (the review started in 2010).	relationship of Māori and their culture and traditions with their ancestral lands water, sites, wāhi tapu, and other taonga • the importance of tangata whenua being able to exercise kaitiakitanga of the Kermadec Islands. The full plan review will provide the opportunity to revisit Issue 2 and its objectives and policies for the Kermadec Islands. DOC acknowledges comments from Ngāti Kuri in relation to Wai 262 and the protection of rangatiratanga, kaitiakitanga and mātauranga tuku iho and looks forward to discussing these matters fully in due course. Similarly, reference to the Ngāti Kuri Iwi Environmental Plan can be achieved via the plan review. DOC notes that, in the short term, the RMA and the existing policy framework in Issue 2 for the Kermadec Islands provide for Ngāti Kuri involvement in both plan making and consenting. Despite some uncertainty about what Aotearoa New Zealand's environmental management legislation might look like after the Government's reform of the resource management legislation, DOC welcomes working closely with Ngāti Kuri on the plan review. Statutory Acknowledgements for Ngāti Kuri, as per the Ngāti Kuri Claims Settlement Act 2015, are included in Appendix 8 of the Proposed Plan Change.

Advice from Te Aupōuri				
Who	What	When	Advice	DOC response on behalf of the Minister of Conservation
Te Aupōuri	Advice on a draft section 32 report and draft Proposed Plan (redline and strike-out)	5/03/25	Te Aupōuri only provided feedback in relation to implications on Rangitāhua / Kermadec Islands, noting that the Subantarctic Islands are for their own mana whenua to speak on. Te Aupōuri supported all the proposed changes, considering that they strengthen the protection of wāhi and moana. Te Aupōuri expressed that the Statutory Acknowledgements of Te Aupōuri and Ngāti Kuri should remain. Te Aupōuri have not completed a Takutai Moana claim on Rangitāhua / Kermadec Islands or anywhere else, and requested a future provision for this to be acknowledged within the Plan.	DOC thanks Te Aupōuri for their support of the plan change, and for their recognition that the proposed changes will strengthen the protection of our wāhi and moana. The Plan will be due for a full review from September 2027. At that time, DOC can work with Te Aupōuri to capture any matters relevant to Takutai Moana claims of Te Aupōuri on Rangitāhua / Kermadec Islands, or to acknowledge future aspirations. Similarly, the full plan review can cover reference to Ngā Tai e Rua o Te Aupōuri: Environmental Management Plan 2018. DOC notes that, in the short term, the RMA and the existing policy framework in Issue 2 provide for Te Aupōuri involvement in both plan making and consenting. Despite some uncertainty about what Aotearoa New Zealand's environmental management legislation might look like after the Government's reform of the resource management legislation, DOC welcomes working closely with Te Aupōuri on the plan review. Statutory Acknowledgements for Te Aupōuri, as per the Te Aupōuri Claims Settlement Act 2015, are

				included in Appendix 8 of the Proposed Plan Change.
Advice from Ngāi Tahu ki Murihiku				
Who	**What**	**When**	**Advice**	**DOC response on behalf of the Minister of Conservation**
Ngāi Tahu ki Murihiku	Advice on a draft section 32 report and draft Proposed Plan (redline and strike-out)	7/03/25	Advice was provided on behalf of Ngāi Tahu ki Murihiku (Ngāi Tahu) by Te Ao Mārama Inc. General advice noted: • that the Subantarctic Islands are of tribal significance to Ngāi Tahu, therefore exercising rangatiratanga and kaitiakitanga over this whenua and moana is of paramount importance. Ngāi Tahu expressed that the Plan should reflect these Ngāi Tahu responsibilities. • the cost-benefit analysis in the section 32 report draws conclusions for mana whenua and advised that only mana whenua can make such judgements. • the NZCPS is currently under a targeted review and Ngāi Tahu wish to understand how DOC will address any anticipated changes – either within the plan change documentation itself or to the notification process. • While acknowledging that this plan change is bespoke, Ngāi Tahu see this as an opportunity to undertake a wider review. As	DOC thanks Te Ao Mārama Inc for the advice on behalf of Ngāi Tahu, and the detailed feedback provided on each proposed change related to the Subantarctic Islands. DOC acknowledges that the Subantarctic Islands are of tribal significance to Ngāi Tahu, and that exercising rangatiratanga and kaitiakitanga over this whenua and moana is of paramount importance. DOC considers that Issue 2 of the Operative Plan recognises this. That said, and with respect to the last bullet of your general feedback, yes, this plan change is narrow in scope. It is not intended to be a wider review, but the Plan will be due for a full review from September 2027. Despite some uncertainty about what Aotearoa New Zealand's environmental management legislation might look like after the Government's reform of the resource management legislation, DOC welcomes working closely with Ngāi Tahu on the plan review. DOC agrees that only mana whenua can draw conclusions about the costs and benefits of the proposed changes for mana whenua. However,

			part of this plan change, mana whenua would have welcomed the opportunity to update the sections of the plan of relevance to them, including (but not limited to): • 'Values of the Coastal Marine Areas of the Islands' • 'Issue 2: Kaitiakitanga of the Coastal Marine Area' • 'Issue 3: Historic and Cultural Heritage' • 'Integrated Management'. The majority of the detailed advice is centred on Performance Standards 5 and 6 and what those performances standards mean for the access and anchoring of vessels – and particularly for Ngāi Tahu, in the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori. Ngāi Tahu noted that there is no size limit on vessels accessing Port Ross in the winter months when the tohorā / southern right whale are present. Ngāi Tahu opposed changes to Maps 2, 3 and 5, mainly because they were not included in the redline version of the draft plan change provided.	section 32 of the RMA requires local authorities (in this case, the Minister) to assess likely cultural effects (among other things) anticipated from the implementation of the proposals. Regarding any potential changes to the NZCPS, DOC position is that this plan change will proceed based on the operative NZCPS 2010. DOC will re-assess if and when needed, if there are any changes relevant to the Proposed Plan Change or notification and submission process. DOC has looked closely at the detailed advice provided on Performance Standards 5 and 6 and the implications of those for access and anchoring of vessels – particularly for Ngāi Tahu in the exercise of rangatiratanga, kaitiakitanga and mātauranga Māori. DOC does not consider that the changes sought by Ngāi Tahu are appropriate in Rule 39 (a permitted activity for non-DOC commissioned research). DOC considers that broader changes are required to address the exercise of rangatiratanga, Kaitiakitanga and mātauranga Māori. Such changes are beyond the intended scope of this plan change but can be fully explored in the full plan review. In the meantime, DOC acknowledges that this may impose a cultural cost on Ngāi Tahu ki Murihiku if their activities do not comply with the conditions of the permitted activity Rule 39 and they need to apply for a resource consent.

			Ngāi Tahu supported the deletion of Note 1 at the beginning of the rules section 'Provisions specific to vessel length'. Ngāi Tahu opposed replacing the term 'significant natural character' with 'outstanding natural character' in the Issue 1 description. Mana whenua query the legal status of the word 'outstanding', given its meaning within the RMA context, noting the requirement under the RMA that a suitably qualified landscape architect can be the only individual who can categorise and classify landscape areas. Ngāi Tahu noted that a full landscape assessment would have to be undertaken as part of the plan change process. Ngāi Tahu advised support for the addition of Rule 47A, and for the amendments to the control of vessel hull and niche area fouling, including: • amendments to the biofouling threshold in Performance Standard 1.2 in Table 1 • removing the requirement to use inspectors approved by the Minister, and consequentially removing Appendix 5 • clarification of evidence of a valid anti-fouling system • amendments to the Appendix 4 vessel hull and niche area inspection requirements, method and forms.	With respect to there being no size limit for vessels accessing Port Ross in the winter months when tohorā / southern right whale are present in the amended Performance Standard 5. DOC notes that Performance Standard 5 in the Operative Plan contains a vessel size limit of up to 75 m long. However, Performance Standard 5 in the Operative Plan does not apply to Rules 38 and 39 (research and DOC management work). Given the increased risks to tohorā /southern right whales, and to vessels and people, from higher whale numbers that are continuing to increase, DOC agrees it is appropriate to include a vessel size limit. DOC thanks Ngāi Tahu for raising this and will add a new condition into Performance Standard 5 specifying that no vessel can be longer than 75 m. Regarding map amendments, an amended Map 3 has since been included in the redline version of the draft Proposed Plan. It shows the two additional anchorages in Carnley Harbour that are proposed to be added into the plan change at the request of the scampi fishing fleet, for sheltering and health and safety. There are also two new anchorage chartlets for those two anchorages. There will be no changes to Maps 2 and 5. Regarding Note 1 at the beginning of the rules section 'Provisions specific to vessel length', DOC has changed its position on the deletion of that note, which was not intentional. Note 1 provides

				clarity that all the access and anchoring rules include the ability to launch and collect ancillary craft. Instead of Note 1 being deleted, the proposal is to add the words 'provided the ancillary craft comply with Rule 40'. Ngāi Tahu have advised that replacing 'significant' with 'outstanding' in the Issue 1 description would mean a suitably qualified landscape architect would need to undertake a full landscape assessment as part of the plan change process. DOC notes that is not necessary. That RMA requirement pertains to NZCPS policy 15, 'Natural features and landscapes'. Policy 15 has been considered in the section 32 report. While the Issue 1 description only directly addresses natural character, in terms of giving effect to policy 15 of the NZCPS 2010, the Plan is considered to achieve the level of protection required for outstanding values. DOC thanks Ngāi Tahu for their support of the other proposed amendments covered in their detailed advice.

Appendix 2: Summary of engagement with Ngāi Tahu ki Murihiku

What		When	Who	Description of engagement
Pre-statutory engagement	In-person meeting	3/03/21	Te Ao Mārama Inc	DOC introduced the proposals for the plan change to the Regional Coastal Plan: Kermadec and Subantarctic Islands.
	Email	4/03/21	Te Ao Mārama Inc	DOC shared a presentation from the meeting on 3/03/21.
	Email	15/06/21	Te Ao Mārama Inc	DOC follow-up querying if Te Ao Mārama Inc wanted to be involved in the plan change or wanted any further information. DOC provided a summary of the narrow-in-scope plan change.
	Email	22/06/21	Te Ao Mārama Inc	Te Ao Mārama Inc responded to DOC's 15/06/21 email, noting Te Rūnanga o Ngāi Tahu had done some work on the proposals for the plan change and this would be passed on.
	Email	5/07/21	Te Ao Mārama Inc	DOC contacted Te Ao Mārama Inc enquiring if they wanted to meet.
	Email	15/09/21	Te Ao Mārama Inc	Te Ao Mārama Inc responded to the email suggesting an online meeting.
	In-person meeting	1/11/22	Kaitiaki Roopu	DOC gave a presentation to Kaitiaki Roopu summarising the plan change.
	In-person meeting	1/11/22	Te Ao Mārama Inc	DOC met with Te Ao Mārama Inc and discussed the purpose of the plan change.
	Email	10/11/22	Te Ao Mārama Inc	DOC sent a summary document about the intended plan change to Te Ao Mārama Inc for the Board of Te Ao Mārama Inc.

	Email	13/12/22	Te Ao Mārama Inc	DOC emailed enquiring if the Board of Te Ao Mārama Inc had considered the summary paper.
Pre-statutory engagement	Email	13/12/22	Te Ao Mārama Inc	Te Ao Mārama Inc enquired about funding to support iwi input into review of the plan change discussion documents.
	In-person meeting	24/01/23	Te Ao Mārama Inc	Te Ao Mārama Inc and DOC discussed the intended plan change, including questions of scope and funding to support iwi input into review of the plan change discussion documents.
	Email	16/02/23	Te Ao Mārama Inc	Te Ao Mārama Inc emailed querying plan change timeframes and scope for services in order to provide a quote.
	Email	28/02/23	Te Ao Mārama Inc	DOC responded to Te Ao Mārama Inc's email of 16/02/23, outlining scope and requesting a meeting to discuss.
	Email	31/03/23	Te Ao Mārama Inc	DOC shared a discussion document on proposals for change related to access and anchoring, gave a brief update on consultation and requested a meeting to discuss.
	Email	1/06/23	Te Ao Mārama Inc	DOC shared a further update on consultation.
	Email	27/11/24	Te Ao Mārama Inc	DOC emailed to provide an agenda, the summary of the intended plan change provided to Te Ao Mārama Inc on 10/11/22, and an updated summary document.
	Online meeting	29/11/24	Te Ao Mārama Inc	The meeting agenda outlined the timeframes for the plan change process – this was discussed briefly.
	Email	22/01/25	Te Ao Mārama Inc	DOC sent drafts of the section 32 report and a redline draft of the plan change, seeking feedback.
	Email	7/03/25	Te Ao Mārama Inc	Te Ao Mārama Inc provided feedback to DOC on the draft plan change and draft section 32 report.

Appendix 3: Summary of engagement with Ngāti Kuri

What		When	Who	Description of engagement
Pre-statutory engagement	Email	29/7/20	Ngāti Kuri CEO	DOC provided an initial introduction and description of the scope of the plan change and an invite to engage in the process, offering to discuss further.
	Email	16/4/21	Ngāti Kuri CEO	DOC followed up the email sent on 29/7/2020, including a draft of how Statutory Acknowledgements could be included in the plan change in Issue 2.
	Email	12/5/22	Ngāti Kuri CEO	DOC provided an update on work being undertaken by DOC at the Kermadec Islands and Subantarctic Islands. The email is mostly about the grounding incident of the French cruise ship at Snares Island in 2017, the Transport Accident Investigation Commission report recommendations, and what DOC is doing to address those. DOC also included a reminder of the plan change process.
	Email	7/6/22	Ngāti Kuri CEO	DOC provided a further update to the email on 12/5/22 regarding the management of navigation at the Kermadec Islands, sharing a consultation document from the Ministry of Transport, including a proposal to allow the Minister of Conservation to appoint a harbourmaster.
	Letter by email	4/11/24	Ngāti Kuri Trust Board	DOC outlined the proposed plan change, summarising the changes that are relevant to the Kermadec Islands, noting it seeks to address some navigation safety matters and better give effect to the NZCPS in order to protect the marine environment of the islands. DOC welcomed Ngāti Kuri to work together with DOC in the future on a full review of the coastal plan.
	Email	6/12/24	Ngāti Kuri Trust Board	DOC provided an update on process and timeframes.

	Email	18/2/25	Ngāti Kuri Trust Board	DOC sent drafts of the section 32 report and a redline draft of plan changes, seeking feedback.
	Email	26/02/25	Ngāti Kuri Trust Board	Ngāti Kuri provided feedback on the draft plan change and draft section 32 report.
	Email	27/02/25	Ngāti Kuri Trust Board	Ngāti Kuri provided additional feedback to DOC on the draft plan change and draft section 32 report.

Appendix 4: Summary of engagement with Te Aupōuri

What		When	Who	Description of engagement
Pre-statutory engagement	Email	29/7/20	Te Aupōuri CEO	DOC provided an initial introduction and description of the scope of the plan change and an invite to engage in the process, offering to discuss further.
	Email – follow-up response further to a phone call query	30/9/20	Te Aupōuri	DOC provided a summary of the provisions of the Plan relevant to the Kermadec Islands, including an explanation of the rules controlling access and vessel hull biofouling. DOC noted these are the key rules the Plan uses to minimise the risk of oil spill and introduction of marine pests.
	Email	16/4/21	Te Aupōuri CEO	DOC followed up the email sent on 29/7/20, including a draft of how Statutory Acknowledgements could be included in the plan change in Issue 2.
	Email	12/5/22	Te Aupōuri CEO	DOC provided an update on work being undertaken by DOC at the Kermadec Islands and Subantarctic Islands. The email is mostly about the grounding incident of the French cruise ship at Snares Island in 2017, the Transport Accident Investigation Commission report recommendations, and what DOC is doing to address those. DOC also included a reminder of the plan change process.
	Email	7/6/22	Te Aupōuri CEO	DOC provided an update to the email on 12/5/22 regarding the management of navigation at the Kermadec Islands, sharing a consultation document from the Ministry of Transport, including a proposal to allow the Minister of Conservation to appoint a harbourmaster.
	Letter by email	4/11/24	Te Aupōuri CEO	DOC outlined the proposed plan change, summarising the changes that are relevant to the Kermadec Islands. DOC noted that the narrow-in-scope plan change seeks to address some navigation safety matters and better give

				effect to the NZCPS in order to protect the marine environment of the islands. DOC welcomed Te Aupōuri to work together with DOC in the future on a full review of the coastal plan.
	Email	12/11/24	Te Aupōuri CEO	Te Aupōuri CEO emailed a response to DOC's email of 4/11/24, expressing support for the proposals.
	Email	6/12/24	Te Aupōuri CEO	DOC provided an update on process and timeframes.
	Email	18/2/25	Te Aupōuri CEO	DOC sent drafts of the section 32 report and a redline draft of plan changes, seeking feedback.
	Online meeting	27/02/25	Te Aupōuri CEO	Te Aupōuri CEO and DOC met to discuss the draft plan changes.
	Email	5/3/25	Te Aupōuri CEO	Te Aupōuri CEO provided feedback on the draft plan change and draft section 32 report.

Appendix 5: Summary of engagement with stakeholders

What		When	Who	Description of engagement
Southern Ocean scampi fishing fleet				
Pre-statutory engagement	Online meeting	26/08/20	Southern Ocean scampi fishing fleet	DOC introduced the scope and reasons for the intended plan change. The scampi fleet requested additional anchorages be included.
	Email	2/12/20	Southern Ocean scampi fishing fleet	DOC emailed the scampi fleet to follow up on the 26/08/20 meeting, asking the scampi fleet for details of the requests for additional anchorages.
	Letter by email	12/04/21	Southern Ocean scampi fishing fleet	The scampi fleet provided written comments on the intended plan change: • opposing the restrictions in Port Ross in winter when the tohorā / southern right whales are present • questioning the need for amendments to the biofouling controls • requesting four additional anchorages.
	Email	7/07/23	Southern Ocean scampi fishing fleet	DOC sent the draft discussion document (focused on access and anchoring provisions) to the scampi fleet and requested a meeting to discuss.
	Email	18/07/23	Sanford	Sanford noted the intended changes to Port Ross in winter and requested the plan changes and section 32 report.
	Email	19/07/23	Sanford	DOC clarified the plan change had not yet been notified and DOC was seeking to engage in pre-statutory consultation with key stakeholders such as Sanford and the Southern Ocean scampi fleet. DOC re-iterated a desire to meet with the scampi fishing fleet.

Cruise ship operators (Subantarctic Islands)				
Pre-statutory engagement	In-person meeting	12/04/23	Heritage Expeditions	DOC met with Heritage Expeditions to discuss the draft discussion document that focussed on changes to the access and anchoring provisions.
	In-person meeting	13/04/23	Ponant	DOC met with Ponant to discuss the draft discussion document that focussed on changes to the access and anchoring provisions.
	Email	1/06/23	Ponant Heritage Expeditions Aurora Expeditions Lindblad Expeditions Tui Cruises Swan Hellenic Coral Expeditions	DOC emailed cruise ship operators that operate in the Subantarctic Islands explaining that DOC was initiating a narrow-in-scope plan change. DOC provided a summary of the matters to be included and a copy of the discussion document that focussed on changes to the access and anchoring provisions, and asked for feedback.
	Email	9/08/23	Tui Cruises	Tui Cruises emailed queries about the proposed amendments to ancillary craft access.
	Email	14/8/23	Tui Cruises	DOC responded to the queries in the 9/08/23 email from Tui Cruises.
	Email	1/07/24	Aurora Expedition	DOC emailed Aurora Expedition explaining that DOC was initiating a narrow-in-scope-plan change. DOC provided a summary of the matters to be included and a copy of the discussion document, and asked for feedback.
	Email	9/4/25	Coral Expeditions	DOC provided a high-level explanation to Coral Expositions about the plan change process, focused on proposals for changes to the biofouling requirements in the Plan.

Researchers with interest in the Kermadec and Subantarctic Islands				
Pre-statutory engagement	Email	2/06/23	Otago University Auckland University Massey University Cawthron Institute Auckland Museum Latitude42 Environmental Consultants Oceanum Parker Conservation NIWA DOC Four private individuals known to have research interests in the islands	DOC emailed research organisations that operate in Kermadec and Subantarctic Islands, explaining that DOC was initiating a narrow-in-scope-plan change. DOC provided a summary of the matters to be included and a copy of the discussion document that focussed on changes to the access and anchoring provisions, and asked for feedback.