

## **SailGP event in Lyttelton Harbour, March 2023 – DOC comms approach and processes - DRAFT**

*Prepared by Michael Hayward, ESI media advisor*

Circulated to Andy Thompson, Jo Macpherson, Abby Lawrence, Marlous Heijs, Jeff Neems, Henry Weston, Social Media Team, WebTeam.

Latest update – 17 March 2023

### **Context (background information for internal staff)**

International yacht racing series SailGP is holding an event in the Lyttelton Harbour/Te Whakaraupo on 18-19 March 2023. It will be preceded by 2 days of practice. SailGP is a high-profile event with a large global following of fans and live television coverage to more than 180 countries, expected to reach approximately 50 million people. The racing yachts can reach speeds of almost 100kmh on the water.

The event involves nine racing yachts, about 40 support boats, and approx. 170 spectator boats within a designated area in front of the port. Many other vessels are likely to try and watch from outside the restricted area as well.

The Lyttelton Harbour/Te Whakaraupō is home to a wide range of native wildlife including seabirds, fish, and marine mammals like the distinctive and nationally vulnerable Hector's dolphin. It is possible that Upokohue/Hector's dolphins could appear on the racecourse and there is potential for an incident such as a boat strike – it is not known how they will react to this type of event.

The race does not need a permit under the relevant legislation DOC has responsibilities for (the Marine Mammals Protection Act and Marine Mammals Protection Regulations) as the purpose of the event is not to look for marine mammals.

However, all vessels involved in the event (including race boats, support boats and spectators) must abide by this legislation, which provides directions for how vessels are to behave around marine mammals.

In relation to this event, DOC's role is to advocate for the protection of marine mammals, and to carry out compliance functions if any incidents involving protected wildlife occur. We are working closely with Te Hapu o Ngāti Wheke. If an incident involving a marine mammal does occur, we will ensure the animal is treated with dignity and tikanga is observed.

SailGP and ChristchurchNZ have developed a Marine Mammal Management Plan for the event, to minimise any risks to marine mammals. DOC provided technical advice for this plan but is not responsible for it and does not have a role to sign it off/approve it. Following an LGOIMA request, ChristchurchNZ have released this plan publicly on 22 December 2022 - <https://www.christchurchnz.com/explore/whats-on/sailgp/marine-mammal-management>

The plan describes how the harbour will be divided up into zones and land- and water-based observers will be used to monitor whether any dolphins are in the area. The race will be paused if dolphins are seen in certain zones or on the course. The observers will be supported by real-

time acoustic monitoring and drone surveys (for practice days/before racing). Spectators will also be encouraged to report any sightings using the Sea Spotter phone app.

Any decisions around pausing or cancelling racing is up to the race organisers. DOC will provide advice if these decisions are being made due to incidents involving marine mammals but does not make the decision.

The use of acoustic deterrent devices (devices which emit loud noises in the hopes of discouraging dolphins from the area) was initially proposed. This would have required a permit as it would be considered harassment under the Marine Mammal Protection Act, and SailGP's environmental consultant did lodge an application. The application was later withdrawn following discussions with DOC about uncertainties with how Upokohue /Hector's dolphins would respond to the devices, which have not been tested in a New Zealand context. There has been some media coverage on this application.

Another round of SailGP is planned for Lyttelton in 2025.

### **Media comms process if a marine mammal is struck during the event**

- Confirm with Mahaanui Ops Manager Andy Thompson (who is in the control room) what has happened and that we will send out a statement, and fill in gaps in draft media statement as required.
- Michael to let ESI Ops Director Jo Macpherson, media manager Bronwyn Saunders, webteam, social media team, Minister's office, Leigh-Anne Wiig and Sean Goddard in CE's office know that there has been an incident – via email.
- Liaise with Ngāti Wheke and SailGP comms teams to coordinate timing of statements.
- Share our media statement with SailGP's comms team as an FYI.
- Email media statement through to web team to have it loaded onto our website.
- Send media statement to news outlets, Minister's office, etc.
- Consider a social media post to our social channels.
- Triage media queries as they come through to the media inbox/by phone.

### **Key messages**

*Please attribute to DOC Mahaanui Operations Manager Andy Thompson:*

#### General messages and DOC's role

- The Lyttelton Harbour/Te Whakaraupō is home to a wide range of native wildlife including seabirds, fish, and marine mammals like the distinctive and nationally vulnerable Upokohue /Hector's dolphin.
- Race organisers do not require a permit or permission from DOC to hold the event.
- The Marine Mammals Protection Act and Marine Mammals Protection Regulations contain guidance on how vessels must behave around marine mammals. All vessels and people involved in the SailGP event in Lyttelton, including any support boats or spectators, are expected to abide by the Marine Mammals Protection Act and Regulations.

- We have made it clear to the race organisers that DOC's role is to advocate for the protection of marine mammals, and to carry out compliance functions if any incidents involving protected wildlife were to occur.
- Anyone heading onto the water to watch the race is encouraged to download the Sea Spotter phone app and report any sightings of dolphins or other marine mammals.
- People controlling vessels should know what to do if they encounter a dolphin or other marine mammal: travel no faster than idle/no wake speed if within 300m of a dolphin, and do not circle or obstruct marine mammals or cut through groups. More info is available on the doc website <https://www.doc.govt.nz/nature/native-animals/marine-mammals/sharing-our-coasts-with-marine-mammals/>

#### DOC and the marine mammal protection plan

- We are pleased SailGP has made their Marine Mammal Management Plan available to the public.
- DOC has provided advice to the working group developing the management plan since March 2021. We had the opportunity to provide technical and operational perspectives on the development of this plan and have worked with Ngāti Wheke, interested parties and race organisers through this time.
- We acknowledge that all parties (iwi, ChristchurchNZ, independent experts, DOC staff and Sail GP) have worked hard to consider and mitigate effects on Upokohue /Hector's dolphins and other marine mammals.
- DOC can see potential in SailGP's legacy project to develop real-time acoustic detection devices, and the protection benefits these will bring to dolphins in other harbours globally.

#### SailGP's marine mammal permit application/acoustic deterrent devices

- DOC received a marine mammal permit application from SailGP's environmental consultants on December 13, 2022. The application was for a permit to trial underwater acoustic deterrent devices in Pegasus Bay to deter marine mammals, and to use them during the SailGP event in Whakaraupō/Lyttelton Harbour in March. These devices were proposed as an additional measure in the marine mammal management plan for the event.
- We have been in regular contact with the race organisers and received notice on February 1 that they have withdrawn the application.
- There has not been research into what effects the acoustic deterrent devices that were originally proposed in the event's Marine Mammal Management Plan (MMMP) might have on Upokohue/Hector's dolphins, or how effective they would be if used during this type of event, or in a New Zealand context. Therefore, without thorough research we cannot say how Hector's dolphins in Lyttelton Harbour would be impacted if they were to be used at the SailGP event.
- A permit would have been required to use these devices because their use would breach the Act/Regulations as they deliberately disturb dolphins.

#### DOC's role during the race

- DOC will have a vessel on the water for both race days and during practice, to respond if there is an incident involving a marine mammal during the event. This may involve collecting a marine mammal if one is struck by a vessel.
- A DOC staff member will be in the event control room so we will be receiving updates and information in real time. Our vessel will be in contact with that staff member.
- We have met with SailGP race organisers to discuss roles and timing if an incident involving a marine mammal was to occur and DOC's vessel needed to enter the racecourse.
- We will also have staff on Otamahua/Quail Island to help manage any spectators that are planning to watch the racing from the island.
- We are working closely with Te Hapū o Ngāti Wheke to ensure that appropriate tikanga will be followed if there is an incident involving a marine mammal.

Key messages for if there is an incident involving a marine mammal:

- *[If a marine mammal is hit]* DOC and Te Hapū o Ngāti Wheke are responding to an incident involving a [marine mammal species] during SailGP's yacht racing event in Lyttelton Harbour.
- *[If a marine mammal is confirmed to be killed]* Sadly, the [marine mammal species] has been struck by a vessel and has died. DOC and Ngāti Wheke staff on the water are recovering the animal to observe appropriate tikanga before it is sent away for a necropsy.
- *[If a marine mammal is injured]* Unfortunately, the [marine mammal species] has been struck by a vessel and has been injured. DOC and Ngāti Wheke staff on the water are attempting to collect the animal. We will assess its condition with support from technical experts to determine what would be in the best interests of the animal's welfare and to ensure appropriate tikanga is followed.
- *[If asked if euthanasia is a possibility]* We will assess the condition of the animal and euthanasia will be considered if this is in the best interests of the animal's welfare and to ensure appropriate tikanga is followed.
- *[If asked about compliance action]* Our compliance team is gathering information on what has happened. It is too early to say whether DOC will be taking compliance action or what that might look like. This process will take some time, and we will provide updates to the public when we are able to.
- *[If asked whether DOC will stop the race]* Ultimately, it is the race organisers' decision to suspend or cancel the race. We have provided advice recommending [brief summary of advice].

General Hector's dolphin messages

- Upokohue/Hector's dolphins are one of the world's smallest dolphins, about 1.5m long. They are a taonga species and nationally vulnerable, with a population of about 15,700, primarily found around the South Island's coastline.
- Banks Peninsula is a hotspot for Upokohue/Hector's dolphins on the east coast of the South Island.

- Hector's dolphins, and the closely related Māui dolphin, have a distinctive rounded dorsal fin that looks like Mickey Mouse's ear. They have grey, white and black markings on their bodies.
- Rounded fin? Send it in! Anyone who sees a Hector's or Maui dolphin is encouraged to report the sighting to DOC, as this provides important information to understand and protect these species. This can be done through the DOC website. We are looking for an exact location and time and an estimate of the number of dolphins seen, alongside pictures or video if possible.
- DOC and Fisheries NZ are committed to ensuring the long-term viability of Hector's and Māui dolphin populations. Risks to these sub-species are managed through the [Hector's and Māui Dolphin Threat Management Plan](#).

### Draft reactive statement

*Prepared in case of an incident involving Upokohue/Hector's dolphin or other marine mammal during the event.*

DOC, Ngāti Wheke responding to [Marine mammal] incident at SailGP in Lyttelton

*The below can be attributed to DOC Mahaanui Operations Manager Andy Thompson:*

DOC and Te Hapū o Ngāti Wheke are responding to an incident involving a [marine mammal species] during SailGP's yacht racing event in Whakaraupō/Lyttelton Harbour.

- *[If a marine mammal is killed]* Sadly, the [marine mammal species] has been struck by a vessel and has died. DOC staff and Ngāti Wheke whānau on the water are recovering the animal to observe appropriate tikanga before sending it away for a necropsy.
- *[If a marine mammal is injured]* Unfortunately, the [marine mammal species] has been struck by a vessel and has been injured. DOC staff and Ngāti Wheke whānau on the water are attempting to collect the animal. We will assess its condition with support from technical experts to determine what would be in the best interests of the animal's welfare and to ensure appropriate tikanga is followed.

*[Info to add, based on what we know for certain – species, basic status of the animal (alive/dead), have we collected animal, was it a race boat, support boat, or spectator involved, time of incident, will racing resume?]*

*[Comment about advice DOC has provided to SailGP about suspending racing]*

Our compliance team will be investigating the incident. It is too early to say whether DOC will be taking compliance action or what that might look like. This process will take some time.

Our focus is on responding to the incident and we have no further comment at this time.

### Q&A

*What will DOC do if a Upokohue/Hector's dolphin or other marine mammal is injured or killed during the event?*

DOC will have/has a vessel on the water during racing to respond if an incident involving a marine mammal does occur. If a vessel strike occurs and an animal is injured or killed, we will attempt to recover the animal. If it is still alive, we will assess its condition with support from technical experts to determine what would be in the best interests of the animal's welfare.

If it has died, we will recover the body so appropriate tikanga can be observed. It will then be sent for a necropsy.

*What are the chances a marine mammal will be injured during the event?*

The risk from the race to Hector's dolphins is from the possibility of boat strike. The race organisers' marine mammal management plan (MMMP) will minimise this risk, however, it does not remove it entirely.

We cannot say how likely it is that an incident could occur during the event.

*Why doesn't SailGP need a permit from DOC to hold the race?*

The race as proposed by the organisers will not deliberately breach the Marine Mammals Protection Act or Regulations and its purpose is not to intentionally view or interact with marine mammals; therefore, no permits are required.

All vessels involved in the event, including any support boats or spectators, must abide by the terms of the Act/Regulations, which provides directions for how vessels must behave around marine mammals.

The race organisers have developed a marine mammal management plan to minimise any potential impacts on Hector's dolphins or other marine mammals. DOC provided advice to the working group that developed this plan but is not responsible for the plan and it does not need DOC approval or sign-off.

We have made it clear to the race organisers that DOC's role is to advocate for the protection of marine mammals, and to carry out compliance functions if any incidents involving protected wildlife were to occur.

*Why is the race allowed to occur in a marine mammal sanctuary?*

The sanctuary was created in 1988 with a focus on protecting Upokohue/Hector's dolphins from bycatch in set nets or trawling nets. It was later expanded and updated to restrict seismic surveying.

The sanctuary does not introduce any restrictions for events such as SailGP.

*What are the consequences of breaking the Marine Mammals Protection Act/Regulations?*

The Marine Mammal Protection Act offence provisions can apply to individuals and corporate bodies. If convicted, individuals may be liable for up to two years' imprisonment or a fine of up to \$250,000, or both.

*Who will be held responsible if an incident involving a marine mammal does occur during the event? What are the potential penalties?*

We wouldn't speculate on who might be held responsible if an incident involving a marine mammal was to occur during the SailGP event.

If an incident does occur, any compliance actions DOC may take would depend on the specific circumstances. We would consider whether people/organisations have complied with the Marine Mammals Protection Act and Regulations, not the event's marine mammal management plan.

In general terms, the Marine Mammal Protection Act offence provisions can apply to individuals and corporate bodies. If convicted, individuals may be liable for up to two years' imprisonment or a fine of up to \$250,000, or both.

*If an incident does occur and the marine mammal management plan is being followed, can DOC still take compliance action?*

If an incident does occur, any compliance actions DOC may take would depend on the specific circumstances. We would consider whether people/organisations have complied with the Marine Mammals Protection Act and Regulations, not the event's marine mammal management plan.

*What does DOC do to support the Hector's dolphin population?*

DOC and Fisheries NZ are committed to ensuring the long-term viability of Hector's and Māui dolphin populations. Risks to these sub-species are managed through the [Hector's and Māui Dolphin Threat Management Plan](#).

In Banks Peninsula, we collect a levy from the Akaroa-based tourism operators that have a permit to view Upokohue/Hector's dolphins, which funds research to better understand the local Upokohue/Hector's dolphin population.

*Why did SailGP apply for a permit to use acoustic dolphin deterrence devices? I thought they didn't need a permit to hold the race?*

SailGP do not need a permit to hold the race as there is nothing in the Marine Mammals Protection Act or Regulations that would require them to get one for this type of event.

However, their marine mammal management plan initially proposed the use of acoustic dolphin deterrence devices. A permit would have been required to use these devices as they would otherwise breach the Act/Regulations because they intentionally disturb dolphins.

SailGP's environmental consultant did apply for a permit to use these devices, but later chose to withdraw the application after discussions with DOC. They do not plan to use the devices during the event.

*Would the race organisers' marine mammal management plan have been more effective if the acoustic dolphin deterrence devices had been used/What is DOC's view on the deterrence devices?*

There has not been research into what effects the acoustic deterrent devices that were originally proposed in the event's Marine Mammal Management Plan (MMMP) might have on Upokohue/Hector's dolphins, or how effective they would be if used during this type of event, or in a New Zealand context.

Therefore, without robust research we cannot say how Upokohue/Hector's dolphins in Lyttelton Harbour would respond if the devices were to be used at the SailGP event, or if their use would reduce the risk to dolphins from the event.

Released under the Official Information Act