

Marine Mammals Protection (West Coast North Island Sanctuary) Amendment Notice 2020

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

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Notice

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

3 Principal notice

This notice amends the Marine Mammals Protection (West Coast North Island Sanctuary) Notice 2008 (the **principal notice**).

4 Clause 3 amended (Interpretation)

- (1) In clause 3(1), revoke the definitions of **acoustic seismic survey, acoustic source, activate, cetacean, during poor visibility, explosion, low-water line, minimum impact activity, mitigating acoustic device, passive acoustic monitoring, qualified observer, soft start, source of acoustic pressure waves, source vessel, and source vessel observer.**

- (2) In clause 3(1), insert in their appropriate alphabetical order:

existing permit—

- (a) means a mining permit, an exploration permit, or a prospecting permit that has been granted and has not expired or been surrendered or revoked on the date on which the Marine Mammals Protection (West Coast North Island Sanctuary) Amendment Notice 2020 comes into force; and

- (b) includes—

- (i) an extension of land granted to the area of an existing permit, an existing privilege, or a subsequent permit under the applicable mining legislation after the date on which the Marine Mammals Protection (West Coast North Island Sanctuary) Amendment Notice 2020 comes into force; and

- (ii) an authorisation granted under applicable mining legislation that allows seismic surveying outside the area of an existing permit, an existing privilege, or a subsequent permit after the date on which the Marine Mammals Protection (West Coast North Island Sanctuary) Amendment Notice 2020 comes into force

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

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

hazard assessment means—

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

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

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

seabed mining—

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

subsequent permit—

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

5 Clause 4 amended (Place defined and declared to be marine mammal sanctuary)

Replace clause 4(1) with:

- (1) All the place described in Schedule 1 is defined for the purposes of subclause (2), other than—
 - (a) the Parininihi Marine Reserve created by the Marine Reserve (Parininihi) Order 2006; and
 - (b) the Kapiti Marine Reserve created by the Marine Reserve (Kapiti) Order 1992; and
 - (c) the Tapuae Marine Reserve created by the Marine Reserve (Tapuae) Order 2008.

6 Clause 5 replaced (Restrictions on seismic surveying)

Replace clause 5 with:

5 Restrictions on seismic surveying

- (1) A person must not carry out a seismic survey from a vessel in the sanctuary created by clause 4(1) unless the seismic survey is undertaken in accordance with one of the following exemptions:
 - (a) under an existing permit, an existing privilege, or a subsequent permit;
 - (b) for decommissioning of mining infrastructure even where there is no existing permit, existing privilege, or subsequent permit in force;
 - (c) for an urgent hazard assessment;
 - (d) for Level 3 surveys as defined in the *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations*;
 - (e) pursuant to an approval by the Minister of Conservation and the Minister of Energy and Resources for an activity—
 - (i) that is nationally significant; and

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

7 Clause 6 replaced (Restriction on mining)

Replace clause 6 with:

6 Restriction on seabed mining

A person must not carry out seabed mining in the sanctuary created by clause 4(1) unless the seabed mining is undertaken—

- (a) in the areas of the sea contained in the internal waters within the north-south extent of the sanctuary; or
- (b) under an existing permit, an existing privilege, or a subsequent permit.

8 Schedule 1 replaced

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

9 Schedule 2 replaced

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

10 Schedule 3 revoked

Revoke Schedule 3.

**Schedule 1
Schedule 1 replaced**

Schedule 1
West Coast North Island Marine Mammal Sanctuary

cl 4(1)

All the areas of the sea enclosed by a line—

- (a) commencing at a point on the mean high-water mark at Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E); then
- (b) proceeding in a southerly direction along the line of mean high-water springs to a point on that line west of Owhiro Bay (approximately 41°20.83'S and 174°44.67'E) being the north-western corner of the Taputeranga Marine Reserve; then
- (c) proceeding in a southerly direction along the western boundary of the Taputeranga Marine Reserve to a point that is its south-western corner (approximately 41°22.00'S and 174°44.67'E), then extending on a bearing of 180° to a point on the outer limit of the territorial sea; then
- (d) proceeding westerly along the line of the outer limit of the territorial sea and a line 12 nautical miles distant from the eastern boundary until it meets the north-eastern boundary of the Clifford and Cloudy Bay Marine Mammal Sanctuary, then along that boundary to a point (approximately 41°17.05'S and 174°20.82'E); then
- (e) proceeding northerly along a line 12 nautical miles distant from the previously mentioned eastern boundary to a point on the outer limit of the territorial sea (approximately 40°53.75'S and 174°36.21'E); then
- (f) proceeding northerly along the outer limit of the territorial sea to a point on that boundary directly west of the point of commencement; then
- (g) proceeding in an easterly direction, at a bearing of 90°, to the point of commencement,—

including all the areas of the sea contained in the internal waters within the north-south extent of the area defined above between the point on Maunganui Bluff (approximately 35°45.54'S and 173°33.30'E) and the point west of Owhiro Bay (approximately 41°20.83'S and 174°44.67'E).

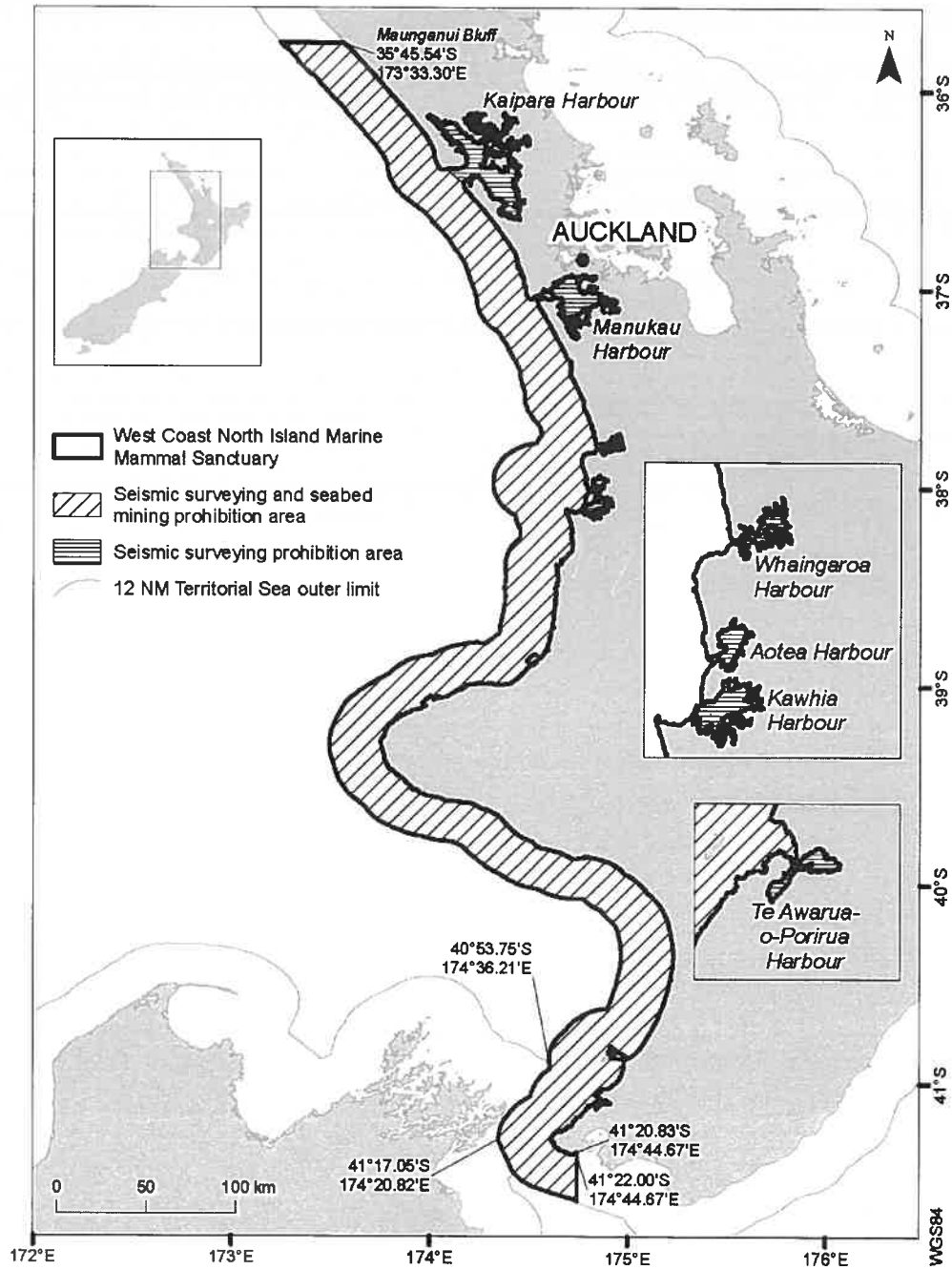
Schedule 2
Schedule 2 replaced

cl 9

Schedule 2
Map of sanctuary

cl 4(3)

Marine Mammals Protection (West Coast North Island Sanctuary) Amendment Notice 2020



Gisborne
Dated at ~~Wellington~~ on this *26th* day of *September* 2020.



Minister of Conservation.

Explanatory note

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

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

- amends clause 4 of the Marine Mammals Protection (West Coast North Island Sanctuary) Notice 2008 (the **principal notice**) to exclude from the declared area of the West Coast North Island Sanctuary (the **sanctuary**) 3 marine reserves that must be excluded from the sanctuary area in terms of section 22(4) of the Marine Mammals Protection Act 1978 (the **Act**); and
- replaces clauses 5 and 6 of the principal notice with *new clauses 5 and 6*, containing changed restrictions on seismic surveying and seabed mining; and
- replaces Schedule 1 of the principal notice with a *new Schedule 1*, containing a verbal description of the expanded sanctuary area in clause 4(1) of the principal notice; and
- replaces Schedule 2 of the principal notice with a *new Schedule 2*, containing a map of the expanded sanctuary area; and
- revokes Schedule 3 of the principal notice, as a consequence of the replacement of clause 6 of the principal notice with *new clause 6* set out in *clause 7* of this notice; and
- revokes and inserts definitions in clause 3(1) of the principal notice that correspond to amendments made by this notice.

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

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This notice is administered by the Department of Conservation.

