

Hauraki Gulf / Tīkapa Moana Marine Protection Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Hauraki Gulf / Tīkapa Moana Marine Protection Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

The Hauraki Gulf / Tīkapa Moana Marine Protection Bill aims to address the environmental decline of the Hauraki Gulf / Tīkapa Moana (the Gulf) caused by human activities. Successive *State of our Gulf* reports detail the negative effects that pollution, sedimentation, climate change, harvesting, and utilisation activities have on the Gulf.

The Gulf is of natural, economic, recreational, and cultural importance. It is home to a diverse range of plants and animals, including fish, seabirds, and marine mammals. It has also sustained the social, cultural, and spiritual wellbeing of mana whenua for centuries. Approximately 6 percent of the Gulf is currently protected.

The bill seeks to restore the overall health and mauri of the Gulf by creating marine protection over 11.5 percent of the area, bringing the total protected area to approximately 18 percent. Location-based marine protection is acknowledged as one of the most effective methods of protecting marine life and achieving positive biodiversity outcomes.

The bill would establish:

- 2 extensions to existing marine reserves, areas where removing any marine life, shells, rocks, or driftwood is strictly prohibited
- 5 seafloor protection areas (SPAs), areas where activities that significantly disturb the seafloor are prohibited

- 12 high protection areas (HPAs), areas where a range of activities, including commercial and recreational fishing, are prohibited.

The bill acknowledges non-commercial customary fishing rights within SPAs and HPAs by allowing the continuation of customary fishing in HPAs, providing that the prohibitions do not apply to rights provided under the Marine and Coastal (Takutai Moana) Act 2011, and by allowing the small-scale removal of non-living natural materials.

About seafloor protection areas

Seafloor protection areas are intended to maintain and restore degraded indigenous seafloor habitats by prohibiting fishing activities that disturb the seafloor, such as bottom trawling and Danish seining. The bill would also prohibit dredging, sand extraction, and mining in SPAs. Customary fishing would be allowed within SPAs, provided prohibited fishing methods are not used.

About high protection areas

High protection areas are intended to protect, restore, and enhance indigenous biodiversity within the protected area. HPAs would provide comprehensive protection to biodiversity on the seafloor, as well as in the water column above it.

A wide range of activities would be regulated within HPAs, including commercial and recreational fishing, large-scale removal of non-living materials such as sand, stone, and driftwood, and the dumping or discharge of waste, sewage, or litter that would have a more-than-minor adverse effect on aquatic life.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We have organised our comments by topic, rather than by following the numerical order of the clauses as they appear in the bill. We do not discuss minor or technical amendments.

Definition and purpose of protected areas

Consistent use of "protected area"

Clause 26(1) states that in Part 3 of the bill, "protected area" means a seafloor protection area or a high protection area. In other parts of the bill, "marine protected area" and "protected area" are used to also refer to marine reserves. We recommend some clarifying amendments to ensure that the term "protected area" is only used to refer to SPAs or HPAs, as intended.

Purpose of protected areas

Clause 12 provides that the purpose of SPAs is to maintain and restore benthic habitats within them. Clause 16 provides that the purpose of HPAs is to protect, restore, and enhance biodiversity within them. We recommend amendments to both clauses. For clarity, we recommend inserting reference to indigenous benthic habitats and indigenous biodiversity to make it clear that incursions of non-indigenous species (such as *Caulerpa*, an invasive seaweed) are not intended to be protected. We also recommend that both clauses are amended to provide that, where degraded, biodiversity and benthic habitats should be restored rather than maintained.

Amendments to definitions

We recommend several amendments to definitions in clause 5. The changes we propose are largely designed to clarify what would or would not be captured by the definitions. We recommend amending the definitions of the following:

- **biodiversity objectives**, by inserting reference to proposed new clause 5A (discussed further below)
- **bottom longlining**, by replacing reference to “a hook or hooks” with “7 or more hooks”
- **customary fishing**, by deleting reference to subpart 5 of Part 2 of the Fisheries (Amateur Fishing) Regulations 2013
- **potting**, by replacing reference to “fish or aquatic life” with “rock lobsters” in subclause (b).

We also recommend inserting the following definitions:

- **individual transferable quota**, with the same meaning as in section 2(1) of the Fisheries Act 1996
- **submarine cable**, with the same meaning as in section 2 of the Submarine Cables and Pipelines Protection Act 1996.

Biodiversity objectives

Clauses 65 and 66 of the bill as introduced would enable the Governor-General to make regulations that set biodiversity objectives for protected areas. The Regulations Review Committee recommended that we consider amendments to provide more detail about what biodiversity objectives are and how they should be determined. We agree with this recommendation.

We recommend inserting new clauses 5A and 5B to make clearer the definition, purpose, and application of biodiversity objectives. The bill would specify that the objectives must be appropriate for the specific area to which they apply, and consistent with the broader purpose of HPAs and SPAs.

We recommend amending clause 66(1)(a) by inserting “seafloor protection areas and”. This would require biodiversity objectives for both SPAs and HPAs to be developed consistently.

Clause 66(2A) would require biodiversity objectives for each area to be developed within 2 years of the Act’s commencement. We propose that the bill also require that

the Minister is satisfied that, if consultation with any person affected by the proposed regulations is appropriate, sufficient consultation has taken place. We recommend inserting clause 66(2)(c) accordingly.

Interaction with other legislation and regulations

The Legislative Design and Advisory Committee suggested that the bill may be unclear as to how it would interact with the Resource Management Act 1991 and the Marine and Coastal Area (Takutai Moana) Act 2011.

We recommend deleting clause 8(2)(b) and inserting clause 21(aaa). Clause 21(aaa) provides that the prohibitions that apply to HPAs and SPAs do not apply to the exercise of rights held under the Marine and Coastal Area (Takutai Moana) Act. We also recommend inserting clause 30A, which provides for additional matters that the Director-General must be satisfied of before granting a permit, if the permitted activity also engages the Marine and Coastal Area (Takutai Moana) Act.

We note that the bill refers to the Fisheries (Amateur Fishing) Regulations 2013 in clause 19 and the Resource Management (Marine Pollution) Regulations 1998 in clause 21. If these regulations were updated, references in the bill would be made obsolete. To avoid this, we recommend replacing these references with references to primary legislation.

“No compensation” clause

As introduced, the bill does not address whether people will be compensated for any loss, real or perceived, if their ability to fish or harvest a quota is reduced by the intended protections. On balance, we believe any potential adverse economic effects are justified by the environmental outcomes the bill seeks to achieve.

Thus, we recommend inserting clause 9A to stipulate that the Crown is not liable to pay compensation for any adverse effect that the bill would have on a person’s right to fish.

Exempted activities

Customary fishing

We received a substantial number of submissions, including many form submissions, from members of the public who considered it unfair to allow customary fishing in HPAs. It appears to us that the provisions in the bill regarding customary fishing have been misunderstood by many of these submitters. We do not consider it necessary to change any provisions in the bill regarding non-commercial customary fishing.

We do, however, note that the bill as introduced does not explicitly prohibit the use of dredging, bottom trawling, or Danish seining when undertaking customary fishing. Although we consider it unlikely that these methods would be used, we recommend the insertion of clause 19(c) to make this prohibition explicit.

Small-scale removal of natural material

Clause 20 would allow the small-scale removal of some natural material from SPAs and HPAs. We recommend an amendment to make clear that this does not include living natural material. We recommend giving effect to this by inserting clause 20(3) to clarify the meaning of “other non-living natural material”.

Council activities

Auckland Council submitted that all activities undertaken by councils should be exempted from prohibitions in SPAs and HPAs. We do not agree that all council activities should be automatically allowed, as some council activities, such as the construction of infrastructure, could have significant effects on marine life. In these cases, it would be appropriate for councils to be required to obtain a permit.

However, we acknowledge that councils carry out a range of activities that it would be appropriate to exempt from prohibitions. We therefore recommend inserting clause 21(dc), which would permit local authorities to:

- monitor or enforce a regional coastal plan or resource consent
- undertake activities relating to state of the environment reporting
- carry out scientific research or conservation activity.

Department of Conservation-administered activities

The bill as introduced does not explicitly spell out the functions it would establish for the Department of Conservation (DOC) or the Director-General of Conservation. We consider it appropriate that the proposed functions and powers of the department and the Director-General should be more clearly defined in the bill.

We recommend the insertion of clause 21A to clearly define the functions and powers that DOC has regarding HPAs and SPAs. We also recommend inserting clause 21(da) to explicitly allow activities related to these functions.

We recommend inserting clause 21B to set out the proposed reporting functions required of the Director-General. The Director-General’s report would be a way for the public to understand progress being made toward the bill’s intended outcomes.

Submarine cables

There are no specific exemptions for submarine cables in the bill as introduced. We consider it important to be able to install, maintain, or repair submarine telecommunications cables. We recommend the insertion of proposed new clause 21(g) accordingly.

Anchoring

The bill as introduced would not prohibit anchoring in SPAs or HPAs. Although any anchoring that had more than a minor adverse effect on aquatic life would be implicitly prohibited in HPAs, other anchoring activity would be allowed. We recommend inserting clause 20A to provide certainty regarding allowed anchoring practices.

Other exempt activities

We also recommend that the bill be amended to allow any activity for which, at the time the bill commenced, a permit had been granted under any Act administered by

DOC, until the expiration of that permit, to be exempt from prohibitions in the bill. We recommend the insertion of clause 21(db) to allow this.

Permits

Part 3, subpart 1 of the bill would establish a permitting system, by which otherwise prohibited activities may be allowed to occur in HPAs and SPAs.

We consider that this is appropriate. However, we recommend that as part of considering an application for a permit, the Director-General should consider whether the activity is consistent with the purpose of the protected area. We recommend inserting clause 29(aaa) to require this.

We also propose amending the bill to allow the Director-General to revoke, or amend the conditions of, an existing permit for an activity that is inconsistent with any new or amended biodiversity objectives set after the permit was granted. We recommend inserting clause 32(ba) accordingly.

Compliance, enforcement, and infringement

Role of honorary rangers

We think it appropriate to specify clearly in the bill that honorary rangers may be granted only a subset of ranger powers, and the exercise of these powers may be confined to certain areas, and recommend inserting clause 36(1A) accordingly.

Requirement to provide an email address

As introduced, clause 37(1)(b) would empower a ranger to require a person to provide personal details if they believe that person is committing, has committed, or is about to commit an offence. This would include an email address. We consider that the power to require an email address goes beyond what is accorded to enforcement officers under comparable legislation, and so should be removed. We note that individuals can still choose to provide their email address, if this is a more practical point of contact.

Consideration of mens rea

We note that clause 42 does not consider a person's knowledge of whether they committed an offence (*mens rea*). We recommend amending the clause to make clear that a person must knowingly undertake prohibited activity for that action to constitute an offence.

Double jeopardy

As introduced, clause 48 specifies that a person could not be charged with, prosecuted for, or convicted of an offence under clauses 41 to 43 at the same time as an offence under clause 47, and vice versa. We note that legal principles concerning such a "double jeopardy" situation are well established, and consider that including it in the bill could create uncertainty in other legislation that did not specifically rule it out. We therefore recommend deleting clause 48.

Disposal and forfeiture of property

Clause 57, as introduced, specifies the procedure for the disposal of property seized under the bill. Submitters raised concerns that this clause could allow the Director-General to dispose of seized property regardless of whether the owner was prosecuted or convicted. We recommend deleting clause 57; instead, provisions of the Search and Surveillance Act 2012 would apply.

We note that clause 63(2)(b) would not allow a judge to provide relief of more than 60% of a forfeited property's value to the owner. We recommend that this clause be deleted.

Ability to order removal of a prohibited structure

The bill as introduced would not explicitly allow DOC rangers to order the removal of a structure erected in an HPA in breach of the prohibitions in the Act. We recommend inserting new clause 57 to give rangers this power. It would also allow for cost recovery should DOC itself have to remove the structure.

Regulation-making powers

Clause 65 describes the regulation-making powers that the bill would provide. Given our recommendations related to biodiversity objectives, discussed earlier in this commentary, we recommend deleting clause 65(1)(d). Given our recommendations related to the functions of the department and Director-General, also discussed earlier in this commentary, we recommend deleting clause 65(1)(b). We also recommend inserting a clause to require that the Minister be satisfied that sufficient consultation has taken place before a regulation relating to the management of protected areas is made.

Review process

As introduced, clause 68 would require a Ministerial review of the proposed protected areas no later than 25 years after the commencement of the Act. An earlier review would be allowed, should Ministers consider it appropriate. We recommend amending clause 68(4) to require the review to be reported to the House within 2 years of being initiated.

Name changes

We recommend the following changes to names used for geographic areas throughout the bill to reflect official names, correct spelling errors, or provide clarity:

- replace “Whanganui A Hei (Cathedral Cove)” with “Te Whanganui-o-Hei / Cathedral Cove”
- replace “Craddock Channel” with “Cradock Channel”
- replace “Rotoroa Island” with “Pakatoa and Tarahiki / Shag Island”
- replace “Aldermen Islands / Te Ruamāhua (north)” with “Aldermen Islands / Te Ruamahua (north)”
- replace “Aldermen Islands / Te Ruamāhua (south)” to “Aldermen Islands / Te Ruamahua (south)”
- replace “Ōtata / Noises Island” with “The Noises”.

Issues not resulting in amendments

No changes to proposed protected areas

Although many submitters requested changes to the protection areas that the bill would create, we do not recommend they be changed. The proposed protection areas are the result of an extensive consultation period. We consider that, on balance, the proposed areas are both pragmatic and fair. Any removal of protected areas, change in designation, or changes to boundaries would upset this balance and necessitate more consultation.

We acknowledge that other areas in the Gulf would also benefit from protection, and that broader marine protection policy reform may be required. Although there is no provision in the bill for the establishment of other protected areas, the bill does not preclude this possibility. We note that future legislative reform or Ministerial review could lead to an expansion of protected areas in the Gulf.

Removal of kina

Some submissions suggested that kina harvesting should not be prohibited in HPAs to help the recovery of kina barrens. Kina barrens are seabed areas where kina (sea urchins) are the dominant grazing species. Kina barrens are largely devoid of large seaweeds and are an ecological issue across New Zealand. We are not convinced, on balance, that kina removal needs to be an exempted activity under the bill. However, allowing kina harvest for restoration purposes via a standardised permitting system would support the intended outcomes of HPAs.

Green Party of Aotearoa New Zealand differing view

While we join the committee in supporting the recommendations for amendment, the Green Party would have liked to have seen the ecological integrity and mauri of Tīkapa Moana / Hauraki Gulf given the best possible chance of recovery and restoration by prohibiting bottom trawling methods in the Gulf. Advice from officials is clear that stopping bottom trawling could have significant biodiversity and ecosystem service benefits relative to other fishing methods. This is due to positive effects on seabed communities, wider food web resilience, and reduction in physical disturbance of the seabed.

We welcome the positive step of establishing more innovative and Te Tiriti-centred legislative tools that uphold the rights of tangata whenua and mana moana by reaffirming customary fishing rights. However, we wish to emphasise that if Aotearoa is going to make a meaningful difference in turning the tide on marine life and biodiversity decline—not only in Tīkapa Moana but across the moana—in line with our international commitments under the Convention on Biological Diversity to protect 30 percent of the ocean by 2030, New Zealand's efforts will need to be at a much greater scale.

Appendix

Committee process

The Hauraki Gulf / Tīkapa Moana Marine Protection Bill was referred to the Environment Committee of the 53rd Parliament on 29 August 2023. The committee called for submissions on the bill with a closing date of 1 November 2023. The bill was reinstated with this committee in the 54th Parliament on 6 December 2023.

We considered submissions from 7,644 interested groups and individuals. Of these, 4,073 were identified as form submissions, and were considered in their totality.¹ Unique submissions were all read and analysed, and formed the basis of our consideration of matters in this bill. We heard oral evidence from 79 submitters at hearings in Auckland and Wellington.

Advice on the bill was provided by the Department of Conservation. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Hon Scott Simpson (Chairperson) (from 22 May 2024)

Glen Bennett (from 27 March 2024)

Hon Rachel Brooking

Mike Butterick

Dr Hamish Campbell

Simon Court

Hon Marama Davidson (from 8 May 2024)

David MacLeod (member and Chairperson until 22 May 2024)

Katie Nimon

Lan Pham

Darleen Tana (until 8 May 2024)

Hon Dr Megan Woods (until 27 March 2024)

The following members also participated in consideration of this bill:

Hon Priyanca Radhakrishnan

Tangi Utikere

¹ We defined a form submission as one based off a template, usually quoting views or recommendations word-for-word. These templates are typically created by organisations.

Related resources

The documents received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Tama Potaka

Hauraki Gulf / Tīkapa Moana Marine Protection Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**.

2 Commencement

This Act comes into force on the day after Royal assent.

5

Part 1

Preliminary provisions

3 Purpose of this Act

The purpose of this Act is to contribute to the restoration of the health and mauri of the Hauraki Gulf / Tīkapa Moana by—

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- (a) establishing new marine protected areas—reserves, seafloor protection areas, and high protection areas within the Hauraki Gulf / Tīkapa Moana; and
- (b) acknowledging customary rights within seafloor protection areas and high protection areas.

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4 Tiriti o Waitangi/Treaty of Waitangi

This Act must be interpreted and administered so as to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi.

5 Interpretation

In this Act, unless the context otherwise requires,—

aircraft has the same meaning as in section 5 of the Civil Aviation Act 2023

aquaculture activity means any activity carried out for the purpose of breeding, hatching, cultivating, rearing, or ongrowing fish, aquatic life, or seaweed for harvest

aquatic life has the same meaning as in section 2(1) of the Fisheries Act 1996

biodiversity objectives ~~means the biodiversity objectives established for a seafloor protection area or high protection area under the regulations~~ has the meaning given in **section 5A**

bottom longlining—

(a) means the use of a line—

(i) ~~to which a hook or hooks~~ 7 or more hooks (whether baited or not) are attached; and

(ii) that is sunk using weights; but

(b) does not include the use of a handline

customary fishing means fishing carried out in accordance with—

(a) regulations made under section 186 of the Fisheries Act 1996; or

(b) regulations made under section 297 of the Fisheries Act 1996 for the purpose of section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; ~~or~~

(c) ~~subpart 5 of Part 2 of the Fisheries (Amateur Fishing) Regulations 2013~~

customary marine title has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

Danish seine net means a net or part of a net (including a warp, rope, chain, material, or device used in conjunction with, or attached to, the net) that—

(a) has a buoyancy system on the top edge; and

(b) is weighted on the bottom edge; and

(c) is operated without the use of a horizontal net-opening device by surrounding fish and being drawn over the seabed, or through waters, to 1 or more vessels

Danish seining means use of a Danish seine net

Director-General means the Director-General of the Department of Conservation

dredge—

- (a) means a device towed on or over, or capable of being towed on or over, the seabed; and
- (b) includes a box dredge or ring device

dredging means use of a dredge 5

exploration has the same meaning as in section 2(1) of the Crown Minerals Act 1991

fish has the same meaning as in section 2(1) of the Fisheries Act 1996

fishing has the same meaning as in section 2(1) of the Fisheries Act 1996

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- (a) means the coastal marine area on the east coast of—
 - (i) the Auckland Region, as constituted by the Local Government (Auckland Region) Reorganisation Order 1989, *Gazette* Vol III 1989, p 2247; and
 - (ii) the Waikato Region, as constituted by the Local Government (Waikato Region) Reorganisation Order 1989, *Gazette* Vol III 1989, p 2460; and 15
- (b) includes estuaries and the tidal parts of rivers and creeks on the east coast of the Auckland Region and the east coast of the Waikato Region

high protection area means an area declared to be a high protection area under **section 17** 20

individual transferable quota has the same meaning as in section 2(1) of the Fisheries Act 1996

infringement fee, in relation to an infringement offence, means the infringement fee for the offence specified in the regulations 25

infringement offence means an offence identified in this Act or the regulations as being an infringement offence

London Convention means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)

marine reserve means an area declared to be a marine reserve under **section 10** 30

mining has the same meaning as in section 2(1) of the Crown Minerals Act 1991

mining activity means mining, exploration, or prospecting

Minister means the Minister of Conservation 35

permit means a permit granted under **section 30** authorising a person to undertake a prohibited activity within a seafloor protection area or high protection area

permit holder, in relation to a permit, means the person who has been granted a permit under **section 30** or to whom a permit has been transferred under **section 34**

potting—

- (a) means the use of any pot, whether baited or not, that is capable of catching fish or aquatic life; and 5
- (b) includes the use of any other device capable of catching, holding, or storing ~~fish or aquatic life~~ rock lobsters

prospecting has the same meaning as in section 2(1) of the Crown Minerals Act 1991 10

protected customary right has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011

ranger means a ranger appointed or treated as if they were appointed under **section 35 or 36**

regulations means regulations made under any of **sections 65 to 67** 15

sand extraction means the taking or extraction of sand from the seabed or subsoil

seafloor protection area means an area declared to be a seafloor protection area under **section 13**

seaweed has the same meaning as in section 2(1) of the Fisheries Act 1996 20

set net—

- (a) includes a gill net, ring net, or other sort of net that acts by enmeshing, entrapping, or entangling fish; but
- (b) does not include a fyke net or hīnaki

set netting means use of a set net 25

ship has the same meaning as in section 2(1) of the Maritime Transport Act 1994

structure—

- (a) means any building, equipment, or device; and
- (b) includes an offshore installation, an artificial island, a floating platform, or a submarine pipeline 30

submarine cable has the same meaning as in section 2 of the Submarine Cables and Pipelines Protection Act 1996

trawl net means any net or part of a net (including any warp, rope, chain, material, or device used in conjunction with or attached to the net, but not including a Danish seine net) that— 35

- (a) has a buoyancy system on the top edge; and
- (b) is weighted on the bottom edge; and

- (c) is operated by being drawn over the seabed or through any waters by 1 or more vessels underway

trawling means use of a trawl net.

5A Meaning and purpose of biodiversity objectives

- (1) In this Act, **biodiversity objectives** means the biodiversity objectives for sea-floor protection areas and high protection areas established by regulations made under **section 66(1)(a)**. 5
- (2) The purpose of biodiversity objectives is to set objectives for seafloor protection areas and high protection areas that are—
- (a) appropriate to the characteristics of the particular area; and 10
- (b) consistent with the purposes of seafloor protection areas and high protection areas (*see sections 12 and 16*).

5B How this Act applies biodiversity objectives

- (1) This Act applies biodiversity objectives in the following ways:
- (a) in relation to an application made under **section 27** for a permit to undertake a prohibited activity within a seafloor protection area or a high protection area,— 15
- (i) **section 29(a)** provides that the Director-General must consider the anticipated effects of the activity on the biodiversity objectives for the seafloor protection area or high protection area when considering the application; and 20
- (ii) **section 30(1)(a)(i)** provides that the Director-General may grant the permit if satisfied that the activity is consistent with any biodiversity objectives for the seafloor protection area or high protection area: 25
- (b) **section 32** provides that the Director-General may revoke a permit, or amend any condition of the permit, if the Director-General considers that the activity is inconsistent with the biodiversity objectives for a seafloor protection area or high protection area in a manner not anticipated at the time the permit was granted, or is inconsistent with any new or amended biodiversity objectives established after the permit was granted: 30
- (c) **section 66(1)(b)** provides for the making of regulations that regulate activities occurring within a high protection area as reasonably necessary to give effect to the biodiversity objectives for the area: 35
- (d) **section 67** provides for the making of regulations that provide for additional management actions relating to high protection areas where restrictions imposed by regulations made under **section 66** are not sufficient to achieve the biodiversity objectives.

- (2) **Subsection (1)** is only a guide to the application of biodiversity objectives in this Act.
- 6 Transitional, savings, and related provisions**
The transitional, savings, and related provisions (if any) set out in **Schedule 1** have effect according to their terms. 5
- 7 Act binds the Crown**
This Act binds the Crown.
- 8 Application of other enactments**
- (1) Except as otherwise specified in this Act,—
- (a) ~~all persons performing functions or exercising powers under this Act must comply with any provisions of any other enactment that apply to that function or power; and~~ 10
- (a) any person performing a function or exercising a power under this Act must comply with any other legislation that applies to that function or power; and 15
- (b) the requirement to obtain a permit under this Act does not limit or otherwise affect the requirement to obtain a permit, consent, or other permission necessary under any other ~~enactment~~ legislation.
- (2) Nothing in this Act (except **subpart 1 of Part 2**) limits or otherwise affects the ability of an applicant group to obtain recognition of protected customary rights or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011.— 20
- (a) ~~the ability of an applicant group to obtain recognition of protected customary rights or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011; or~~ 25
- (b) ~~the exercise of protected customary rights or rights held by a customary marine title group under that Act.~~
- 9 Immunities of warships, etc, not affected**
Nothing in this Act limits the immunities of the following:
- (a) any foreign warship: 30
- (b) any other foreign governmental ship operated for non-commercial purposes:
- (c) any foreign military aircraft:
- (d) members of the crew of a ship or an aircraft to which any of **paragraphs (a) to (c)** apply. 35

9A No entitlement to compensation

- (1) The Crown is not liable to pay compensation to any person for any loss of, or any adverse effect on, a right or an interest in individual transferable quota or a right to undertake fishing arising from the enactment or operation of this Act.
- (2) If there is any inconsistency between this section and any other legislation or rule of law, this section prevails over that legislation or rule of law. 5

Part 2**Protected areas—Marine reserves, seafloor protection areas, and high protection areas****Subpart 1—Marine reserves** 10**10 Marine reserves declared**

- (1) The areas described in **Schedule 2** are declared to be marine reserves.
- (2) The marine reserves have the names given to them in **Schedule 2**.

11 Effect of marine reserve declarations

The marine reserves declared by **section 10**— 15

- (a) are to be treated as if they were declared by an Order in Council made under section 4(1) of the Marine Reserves Act 1971; and
- (b) are subject to any enactment that applies to such marine reserves.

Subpart 2—Seafloor protection areas and high protection areas*Seafloor protection areas* 20**12 Purpose of seafloor protection areas**

The purpose of seafloor protection areas is to maintain ~~and restore benthic habitats within the seafloor protection areas.~~ indigenous benthic habitats within the seafloor protection areas and, if those habitats are degraded, restore them.

13 Seafloor protection areas declared 25

- (1) The areas described in **Schedule 3** are declared to be seafloor protection areas.
- (2) The seafloor protection areas have the names given to them in **Schedule 3**.

14 Activities prohibited in seafloor protection areas

- (1) A person must not undertake any of the activities described in **subsection (2)** 30
in a seafloor protection area, unless—
- (a) **section 20 or 21** applies; or

- (b) the activity is undertaken in accordance with a permit granted under **section 30**.
- (2) The prohibited activities are—
 - (a) aquaculture activities:
 - (b) the dumping, depositing, or discharge of waste or other matter that is likely to have a more than minor adverse effect on aquatic life: 5
 - (c) dredging:
 - (d) trawling that makes contact with the seabed:
 - (e) Danish seining:
 - (f) sand extraction: 10
 - (g) mining activity.

15 Additional activities prohibited in Mokohīnau Islands Seafloor Protection Area

- (1) In addition to the prohibitions set out in **section 14**, the following activities are prohibited within the Mokohīnau Islands Seafloor Protection Area: 15
 - (a) set netting:
 - (b) potting that occurs within the area marked with diagonal lines on the indicative map of the Mokohīnau Islands Seafloor Protection Area:
 - (c) bottom longlining that occurs within the area marked with diagonal lines on the indicative map of the Mokohīnau Islands Seafloor Protection Area. 20
- (2) See **Schedule 3** for the indicative map of the Mokohīnau Islands Seafloor Protection Area.

High protection areas

16 Purpose of high protection areas 25

The purpose of high protection areas is to ~~protect, restore, and enhance biodiversity within the high protection areas~~ protect and enhance indigenous biodiversity within the high protection areas and, if that biodiversity is degraded, restore it.

17 High protection areas declared 30

- (1) The areas described in **Schedule 4** are declared to be high protection areas.
- (2) The high protection areas have the names given to them in **Schedule 4**.

18 Activities prohibited in high protection areas

- (1) A person must not undertake any of the activities described in **subsection (2)** in a high protection area, unless— 35
 - (a) **section 19, 20, or 21** applies; or

- (b) the activity is undertaken in accordance with a permit granted under **section 30**.
- (2) The prohibited activities are—
- (a) fishing:
 - (b) aquaculture activities: 5
 - (c) the removal of sand, shingle, non-living shell, or other non-living natural material (within the meaning of **section 20(3)**):
 - (d) the dumping, depositing, or discharge of waste or other matter that is likely to have a more than minor adverse effect on aquatic life:
 - (e) the introduction of any living organism: 10
 - (f) the construction, alteration, extension, removal, or demolition of a structure (including a ship):
 - (g) the causing of vibrations (other than vibrations caused by the propulsion of a ship) in a manner that is likely to have a more than minor adverse effect on aquatic life: 15
 - (h) the disturbance (including by excavating, drilling, tunnelling, or dredging) of aquatic life, habitats, or water column in a manner that is likely to have a more than minor adverse effect on aquatic life:
 - (i) the destruction or damage of the seabed and subsoil in a manner that is likely to have an adverse effect on the seabed and subsoil: 20
 - (j) the landing of an aircraft:
 - (k) the causing of an explosion:
 - (l) mining activity.

Activities to which prohibitions do not apply

- 19 Customary fishing in high protection areas** 25
- (1) Despite **section 18**, a person may undertake customary fishing within a high protection area if—
- (a) the person is authorised to undertake customary fishing under—
 - (i) regulations made under section 186 of the Fisheries Act 1996; or
 - (ii) regulations made under section 297 of the Fisheries Act 1996 for the purpose of section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; ~~or~~ and 30
 - (iii) ~~subpart 5 of Part 2 of the Fisheries (Amateur Fishing) Regulations 2013; and~~
 - (b) the person complies with any regulations made under **section 66 or 67** relating to the high protection area; and 35
 - (c) the person does not utilise any of the following fishing methods:

-
- (i) dredging;
 - (ii) trawling that makes contact with the seabed;
 - (iii) Danish seining.
 - (2) To avoid doubt, this section—
 - (a) applies only to customary fishing within high protection areas; and 5
 - (b) does not apply to the activities prohibited by **sections 14 and 15** in seafloor protection areas.
 - 20 Small-scale removal of natural material in seafloor protection areas and high protection areas**
 - (1) If a person complies with **subsection (2)**, the person may do the following: 10
 - (a) despite **section 14(2)(f)**, remove sand from a seafloor protection area:
 - (b) despite **section 18(2)(c)**, remove sand, shingle, non-living shell, or other non-living natural material from a high protection area.
 - (2) A person who removes sand, shingle, non-living shell, or other non-living natural material from a seafloor protection area or high protection area— 15
 - (a) may remove only a small quantity of the material; and
 - (b) may do so only for non-commercial purposes; and
 - (c) must not use a method of collection that involves the use of machinery or cutting equipment.
 - ~~(3) For the purposes of this section, a **small quantity** is no more than a person can carry on their person, in a single trip, in 1 day.~~ 20
 - (3) In this section,—
 - other non-living natural material—**
 - (a) includes driftwood; but
 - (b) does not include aquatic life 25
 - small quantity** means no more than a person can carry on their person, in a single trip, in 1 day.
 - 20A Anchoring in seafloor protection area or high protection area**
 - (1) A person may anchor a vessel in a seafloor protection area or a high protection area if the person does so in a manner that is unlikely to have a more than minor adverse effect on aquatic life. 30
 - (2) This section is to avoid doubt.
 - 21 Other activities to which prohibitions do not apply**
 - The prohibitions in **sections 14, 15, and 18** do not apply to—

- (aaa) the exercise of protected customary rights or rights held by a customary marine title group under the Marine and Coastal Area (Takutai Moana) Act 2011:
- (a) any activity for which resource consent has been granted under the Resource Management Act 1991 at the time this Act commences, until the expiration of that consent: 5
- (b) ~~any action taken~~ any activity carried out under the Biosecurity Act 1993:
- (e) ~~any activity carried out under the Resource Management (Marine Pollution) Regulations 1998:~~
- (c) any activity carried out under regulations made under section 360(1)(a) and (ha) to (hh) of the Resource Management Act 1991 that relate to the regulation of marine pollution: 10
- (d) the discharge of stormwater, if that discharge is a permitted activity for the purposes of the Resource Management Act 1991:
- (da) any activity undertaken by the department in the performance of its functions or exercise of its powers under this Act: 15
- (db) any activity for which, at the time this Act commences, a permit has been granted under any Act administered by the department, until the expiration of that permit:
- (dc) any of the following activities undertaken by or on behalf of a local authority: 20
- (i) monitoring or enforcement of a regional coastal plan or resource consent:
- (ii) any activity undertaken in relation to state of the environment reporting: 25
- (iii) any activity undertaken in relation to scientific research or conservation:
- (e) any work or activity of the Crown that the Minister of Defence certifies is necessary for reasons of national security:
- (f) training activities undertaken by the New Zealand Defence Force: 30
- (g) ~~any activity permitted under any Act administered by the Department of Conservation:~~
- (g) the placement, maintenance, repair, alteration, or extension of a submarine cable:
- (h) any action necessary in an emergency relating to human safety or the protection of the environment: 35
- (i) any other action taken in response to marine oil spills or other pollution:
- (j) transit shipping that complies with the London Convention.

Functions of department and reporting requirements for seafloor protection areas and high protection areas

21A Functions and powers of department

- (1) The department has the following functions and powers under this Act:
- (a) to manage and administer the seafloor protection areas and high protection areas in accordance with this Act: 5
 - (b) to mark the boundaries of seafloor protection areas and high protection areas:
 - (c) to undertake or commission research, monitoring, and reporting in relation to the seafloor protection areas or high protection areas: 10
 - (d) to perform or exercise any function, power, or duty provided under any other legislation administered by the department, to the extent that the function, power, or duty is consistent with the purpose of the seafloor protection area or high protection area:
 - (e) to perform any other function conferred on the department under this Act. 15
- (2) The Director-General has all the powers that are reasonably necessary or desirable to carry out the functions conferred on the Director-General or the department under this Act.

21B Director-General must report on research and monitoring 20

- (1) The Director-General must, at least once every 5 years, report to the Minister on any research or monitoring undertaken in relation to seafloor protection areas and high protection areas.
- (2) The first report must be completed no later than 5 years after the commencement of this Act. 25
- (3) The Director-General's report—
- (a) must summarise any information that can be reasonably obtained relating to research or monitoring undertaken in relation to seafloor protection areas and high protection areas; and
 - (b) must be made publicly available on an internet site maintained by or on behalf of the department. 30
- (4) See **section 68** for requirements for ministerial review at 25-yearly intervals.

Subpart 3—Official geographic names

22 Interpretation

- In this subpart,— 35
- Board** has the meaning given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008

official geographic name has the meaning given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.

23 Official geographic names

The names given to each of the following are official geographic names for the purpose of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008: 5

- (a) marine reserves declared by **section 10** and listed in **Schedule 2**:
- (b) seafloor protection areas declared by **section 13** and listed in **Schedule 3**:
- (c) high protection areas declared by **section 17** and listed in **Schedule 4**. 10

24 Publication of official geographic names

- (1) The Board must, as soon as practicable after commencement of this Act, give public notice, in accordance with section 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, of each official geographic name specified under **section 23**. 15
- (2) The notice must state that each official geographic name became an official geographic name on the date on which this Act commenced.

25 Subsequent alteration of official geographic names

- (1) In making a determination to alter the official geographic name established by this Act, the Board— 20
 - (a) must consult the Director-General; and
 - (b) if the name is a Māori name,—
 - (i) must consult whānau, hapū, and iwi that exercise kaitiakitanga in the relevant area; and
 - (ii) must ensure that the names use standardised orthography; but 25
 - (c) need not comply with sections 27 to 31A of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.
- (2) To avoid doubt, the Board must give public notice of a determination made under **subsection (1)** in accordance with section 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008. 30

Part 3

Permits, enforcement, and regulations for protected areas

26 Interpretation of this Part

- (1) In this Part, unless the context otherwise requires,—

effect includes—

- (a) ~~any positive or adverse effect; and~~
- (b) ~~any temporary or permanent effect; and~~
- (c) ~~any past, present, or future effect; and~~
- (d) ~~any cumulative effect that arises over time or in combination with other effects~~ 5

effect—

- (a) includes, irrespective of the scale, intensity, duration, or frequency of the effect,—
 - (i) any positive or adverse effect; and 10
 - (ii) any temporary or permanent effect; and
 - (iii) any past, present, or future effect; and
 - (iv) any cumulative effect arising over time or in combination with other effects; and
- (b) also includes— 15
 - (i) any potential effect of high probability; and
 - (ii) any potential effect of low probability that has a high potential impact

protected area means a seafloor protection area or a high protection area.

- (2) The definition of **effect**— 20
 - (a) ~~applies regardless of the scale, intensity, duration, or frequency of the effect; and~~
 - (b) ~~also includes—~~
 - (i) ~~any potential effect of high probability; and~~
 - (ii) ~~any potential effect of low probability that has a high potential impact.~~ 25

Subpart 1—Permits

27 Application for ~~permits~~ permit

- (1) A person may apply to the Director-General for a permit authorising the person to undertake a prohibited activity within a protected area. 30
- (2) An application for a permit must be made in a form approved by the Director-General and include—
 - (a) the applicant's name and contact details; and
 - (b) a description of the proposed activity; and
 - (c) the anticipated effects of the proposed activity. 35

- (3) The Director-General may reject an application for a permit on the basis that inadequate information has been provided.

28 Director-General may seek further information

- (1) When considering an application for a permit made under **section 27**, the Director-General may do all or any of the following: 5
- (a) request further information from the applicant:
 - (b) consult any person or group that the Director-General considers appropriate:
 - (c) commission any report that the Director-General considers appropriate:
 - (d) require the applicant to provide any report that the Director-General considers appropriate. 10
- (2) The applicant must pay the costs associated with the Director-General's inquiries under this section in the manner provided in the regulations.

29 Matters to be considered by Director-General

Before making a decision on an application for a permit, the Director-General must consider— 15

- (aaa) whether, and to what extent, the activity is consistent with the purpose of the protected area; and
- (a) the anticipated effects of the activity on the protected area and its biodiversity objectives; and 20
- (b) the anticipated effects of the activity on the rights and interests of whānau, hapū, and iwi that exercise kaitiakitanga in the protected area; and
- (c) if the anticipated effects of the activity are negative, reasons why the activity— 25
 - (i) is necessary; and
 - (ii) can only occur within the protected area; and
- (d) any measures that can be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

30 Decision of Director-General 30

- (1) After considering an application for a permit and any further information, the Director-General may—
- (a) grant the permit, if satisfied that—
 - (i) the activity is consistent with the purpose of the protected area and any biodiversity objectives for the protected area; and 35
 - (ii) the ~~permit holder applicant~~ will take reasonable steps to avoid, remedy, or mitigate any adverse effects of the activity on the

- rights and interests of whānau, hapū, and iwi that exercise kaitiakitanga in the protected area; or
- (b) grant the permit, if satisfied that—
 - (i) the activity is necessary; and
 - (ii) the activity can only occur within the protected area; and
 - (iii) the ~~permit holder applicant~~ will take reasonable steps to avoid, remedy, or mitigate any adverse ~~impacts effects~~ of the activity on the rights and interests of whānau, hapū, and iwi that exercise kaitiakitanga in the protected area; or
 - (c) decline the application, in the Director-General's discretion.
- (1A) However, **subsection (1)(a) and (b)** is subject to **section 30A**.
- (2) When granting a permit under **subsection (1)(a) or (b)**, the Director-General—
- (a) may impose any conditions on the permit that the Director-General considers appropriate (including any condition that gives effect to the permit holder's obligations under **subsection (1)(a)(ii) or (b)(iii)**); and
 - (b) must provide for the expiry date of the permit.
- (3) The Director-General must—
- (a) notify the following persons of the decision and the reasons for it:
 - (i) the applicant;
 - (ii) whānau, hapū, and iwi that exercise kaitiakitanga in the protected area and that have engaged with the application; and
 - (b) publicly notify the decision on an ~~Internet~~ internet site maintained by or on behalf of the Department of Conservation.
- 30A Additional requirements if Marine and Coastal Area (Takutai Moana) Act 2011 applies to activity**
- (1) This section applies if any of sections 55, 62A, 66, and 71 of the Marine and Coastal Area (Takutai Moana) Act 2011 apply to the activity.
- (2) Before granting a permit under **section 30(1)(a) or (b)**, the Director-General must be satisfied of the following:
- (a) if section 55 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies to the activity, that the relevant protected customary rights group has given its written approval for the activity in accordance with section 55(2)(a) (unless section 55(3) applies to the activity):
 - (b) if section 62A of that Act applies to the activity, that the applicant has met the information requirements of that section to the satisfaction of the relevant consent authority:

- (c) if section 66 or 71 of that Act applies to the activity, that the applicant has obtained permission from the relevant customary marine title group in accordance with the applicable section.

31 Amendment to permit conditions

- (1) The Director-General may amend the conditions of a permit— 5
- (a) in accordance with any condition in the permit; or
 - (b) to correct a minor or technical error; or
 - (c) with the permit holder's agreement; or
 - (d) on 1 or more of the grounds specified in **section 32**; or
 - (e) in accordance with an application by the permit holder under **subsection (2)**. 10
- (2) The permit holder may apply to the Director-General for any conditions of the permit to be amended.
- (3) An application must be accompanied by any information required by the Director-General to assess the application. 15
- (4) After making any amendment to the conditions of a permit, the Director-General must—
- (a) notify the permit holder within a reasonable time; and
 - (b) allow the permit holder a reasonable opportunity to comply with any amended conditions. 20

32 Revocation of permit or amendment to permit conditions due to adverse effects and other grounds

- The Director-General may, at any time, revoke a permit granted under **section 30**, or amend any condition of the permit, if the Director-General considers that the activity— 25
- (a) is causing adverse effects to the protected area that are greater than those anticipated at the time the permit was granted; or
 - (b) is inconsistent with the biodiversity objectives for the protected area in a manner that was not anticipated at the time the permit was granted; or
 - (ba) is inconsistent with any new or amended biodiversity objectives for the protected area set after the permit was granted; or 30
 - (c) is inconsistent with the rights and interests of whānau, hapū, and iwi that exercise kaitiakitanga in the protected area in a manner that was not anticipated at the time the permit was granted.

33 Appeal to High Court on question of law 35

- (1) The following persons may appeal to the High Court against the decisions of the Director-General specified in **subsection (2)**:

- (a) the applicant:
- (b) the permit holder:
- (c) whānau, hapū, and iwi that exercise kaitiakitanga in the protected area.
- (2) The decisions that may be appealed against are—
 - (a) the decision to grant or decline an application for a permit: 5
 - (b) the decision to impose any conditions on the granting of a permit:
 - (c) the decision to make any amendment to the conditions of a permit:
 - (d) the decision to grant or decline an application to amend permit conditions:
 - (e) the decision to revoke a permit. 10
- (3) An appeal brought under this section may be only on a question of law.

34 Permit may be transferred

A permit may be transferred to another person if—

- (a) the permit holder applies to the Director-General for the permit to be transferred; and 15
- (b) the Director-General agrees to the transfer.

Subpart 2—Monitoring and enforcement

Appointment and powers of rangers

35 Rangers appointed under other enactments

The following persons are to be treated as if they were appointed by the Director-General to exercise the powers and perform the duties of a ranger under this Act: 20

- (a) a person appointed as a warranted officer under section 59(1) or (9) of the Conservation Act 1987:
- (b) a person appointed as a fishery officer under section 196 or 197 of the Fisheries Act 1996: 25
- (c) every officer in command of any vessel or aircraft of the New Zealand Defence Force:
- (d) every constable.

36 Appointment of honorary rangers 30

- (1) The Director-General may appoint any suitable person to be a ranger in an honorary capacity to ~~exercise~~ perform the duties of a ranger under this Act.
- (1A) The Director-General may appoint the person to—
 - (a) perform the duties of a ranger in 1 or more of the protected areas; and

- (b) exercise all of the powers specified in **sections 37 to 40**, or only some of those powers.
- (2) The Director-General must supply each ranger with a warrant that—
- (a) states the full name of the person; and
- (b) includes a summary of the powers conferred on the person under this Act. 5
- (3) A ranger exercising a power under this Act must have their warrant with them and must produce it if required to do so.
- (4) A ranger—
- (a) is appointed for a term specified by the Director-General (not exceeding 3 years), and may be reappointed; and 10
- (b) may be removed from office at any time by the Director-General for incapacity, neglect of duty, or misconduct.
- (5) A ranger must surrender their warrant to the Director-General on the termination of their appointment. 15
- (6) A person appointed as a ranger under this section is not, by virtue of the appointment, deemed to be employed for the purposes of the Public Service Act 2020.
- 37 General powers of rangers**
- (1) A ranger who believes on reasonable grounds that a person is committing, has committed, or is about to commit, an offence against this Act may— 20
- (a) order the person to refrain from or stop offending; and
- (b) require the person to provide their full name, date of birth, and address, ~~and email address~~ and evidence of those particulars.
- (2) For the purposes of exercising their powers under this Act, a ranger may, without warrant, pursue and stop a person if the ranger believes on reasonable grounds that the person is committing or has committed an offence against this Act. 25
- 38 Power to question persons and require production of documents**
- (1) A ranger may exercise the powers in this section for the purposes of monitoring compliance with any requirements imposed under this Act, including any permit conditions. 30
- (2) A ranger may require any person—
- (a) to stop, or to stop any vessel, vehicle, or other conveyance in their control; and 35
- (b) to answer any question reasonably necessary to enable the ranger to establish whether the person is complying with this Act, any regulations made under this Act, or any conditions of a permit; and

- (c) to produce any permit, consent, authority, licence, or document issued under this Act or any other Act, and related to the person or vessel.
- (3) ~~The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 3) apply~~ applies to the exercise of powers under this section.
- (4) Section 60 of the Evidence Act 2006 applies in relation to a requirement under **subsection (2)(b) and (c)**. 5

39 Powers of entry, search, and seizure

- (1) A ranger may exercise the powers in this section if the ranger believes, on reasonable grounds, that a person is committing, or has committed, an offence under this Act. 10
- (2) The ranger may, in the presence of the person,—
 - (a) stop, enter, and search any vehicle, vessel, aircraft, or structure in the control of the person; and
 - (b) open and search any parcel, package, container, or luggage in the control of the person. 15
- (3) The ranger may seize any item, document, or thing (including a vessel or vehicle) that the ranger believes, on reasonable grounds,—
 - (a) is being or has been used in the commission of an offence under this Act; or
 - (b) is evidence of the commission of an offence under this Act. 20
- (4) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 3) apply to the exercise of powers under this section.

40 Powers to seize and release or dispose of fish, aquatic life, seaweed, or natural material

- (1) This section applies if a ranger exercising their powers under this Act finds or sights any fish, aquatic life, seaweed, or natural material that the ranger believes on reasonable grounds was removed from a protected area in contravention of this Act. 25
- (2) The ranger may seize—
 - (a) the fish, aquatic life, seaweed, or natural material; and 30
 - (b) any fish, aquatic life, seaweed, or natural material with which the fish, aquatic life, seaweed, or natural material has been intermixed.
- (3) Any fish, aquatic life, or seaweed seized by a ranger that is alive and likely to survive must be returned—
 - (a) to the protected area; or 35
 - (b) to any part of the sea, if it is not practicable to return the fish, aquatic life, or seaweed to the protected area.

- (4) Any fish, aquatic life, or seaweed seized by a ranger that is dead or unlikely to survive, and any natural material, may be—
- (a) ~~disposed of in the manner and for the price determined by the Director-General in the specific instance; or~~
 - (b) ~~retained for the purpose of evidence in any prosecution under this Act or any other Act; or~~ 5
 - (c) ~~retained or disposed of in accordance with the regulations.~~
 - (a) returned to the protected area or to any part of the sea, if the ranger considers that it is appropriate to return the fish, aquatic life, seaweed, or natural material to the protected area or to the sea; or 10
 - (b) dealt with in the manner provided in subpart 6 of Part 4 of the Search and Surveillance Act 2012.
- (5) ~~A ranger exercising the powers in this section has no civil or criminal liability to any person claiming ownership or possession of the fish, aquatic life, seaweed, or natural material seized, regardless of whether that person is charged with or acquitted of an offence against this Act or any other Act.~~ 15
- (5) Part 4 of the Search and Surveillance Act 2012 (except subpart 3) applies to the exercise of powers under this section.

Offences

- 41 Offence to undertake prohibited activity within protected area** 20
- (1) A person commits an offence if the person undertakes a prohibited activity within a seafloor protection area contrary to **section 14 or 15**.
- (2) A person commits an offence if the person undertakes a prohibited activity within a high protection area contrary to **section 18**.
- (3) A person who commits an offence referred to in **subsection (1) or (2)** is liable on conviction to a fine not exceeding \$100,000. 25
- (4) A person who commits an offence referred to in **subsection (1) or (2)** for a commercial purpose is liable on conviction to a fine not exceeding \$200,000.
- (5) For the purposes of this section, a court may find that a person has a **commercial purpose** if the court is satisfied beyond reasonable doubt that— 30
- (a) the offence was committed for the purpose of commercial gain or reward (whether or not any gain or reward is realised); or
 - (b) in the case of a prohibited activity that involves fishing, the person is in possession of a number of fish that exceeds ~~by at least~~ 3 times the amateur individual daily limit. 35
- 42 Offence to knowingly undertake prohibited activity within protected area ~~knowing activity is prohibited~~**
- (1) ~~A person commits an offence if the person—~~

- (a) ~~undertakes a prohibited activity within a seafloor protection area contrary to **section 14 or 15**; and~~
- (b) ~~knows that the activity is prohibited.~~
- (1) A person commits an offence if the person knowingly undertakes a prohibited activity within a seafloor protection area contrary to **section 14 or 15**. 5
- (2) ~~A person commits an offence if the person—~~
- (a) ~~undertakes a prohibited activity within a high protection area contrary to **section 18**; and~~
- (b) ~~knows that the activity is prohibited.~~
- (2) A person commits an offence if the person knowingly undertakes a prohibited activity within a high protection area contrary to **section 18**. 10
- (3) A person who commits an offence referred to in **subsection (1) or (2)** is liable on conviction to a term of imprisonment not exceeding 3 months, or to a fine not exceeding \$250,000, or both.
- 43 Other offences** 15
- (1) A person commits an offence if the person is in possession of, or disposes of, any fish, aquatic life, seaweed, or natural material that the person knows was removed from a protected area in contravention of **section 14, 15, or 18**.
- (2) A person commits an offence if the person, knowingly and without reasonable excuse,— 20
- (a) fails to comply with an order or a requirement of a ranger issued under **section 37, 38, or 39**; or
- (b) refuses to provide a ranger with information requested under **section 38**; or
- (c) pretends to be a ranger, by their words, conduct, or demeanour, in circumstances likely to lead another person to believe that the person is a ranger; or 25
- (d) obstructs or threatens a ranger acting in the course of duty.
- (3) A person who commits an offence referred to in **subsection (1) or (2)** is liable on conviction to a term of imprisonment not exceeding 3 months, or to a fine not exceeding \$100,000, or both. 30
- 44 Prosecution and defence for strict liability offences**
- (1) In a prosecution for an offence against **section 41**, it is not necessary to prove that the defendant intended to commit the offence.
- (2) The defendant has a defence if the defendant proves— 35
- (a) that the defendant did not intend to commit the offence; and
- (b) that,—

- (i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
- (ii) in any case where it is alleged that anything prohibited was done, the defendant took all reasonable steps to ensure that it was not done. 5

45 Liability of director or manager of body corporate

- (1) This section applies when a body corporate is convicted of an offence against this Act.
- (2) A director or manager of the body corporate is also guilty of the offence if it is proved that the director or manager— 10
 - (a) authorised, permitted, consented to, or participated in the act or omission that constituted the offence; or
 - (b) knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it. 15

46 Time for filing charging document

Despite section 25 of the Criminal Procedure Act 2011, no charging document may be filed in respect of an offence under this Act after the date that is 12 months after the date on which the offence was committed. 20

Infringement offences

47 Infringement offences

- (1) A person must not—
 - (a) undertake a prohibited activity within a seafloor protection area contrary to **section 14 or 15**; or 25
 - (b) undertake a prohibited activity within a high protection area contrary to **section 18**; or
 - (c) use, dispose of, or be in possession of, any fish, aquatic life, seaweed, or natural material that has been removed from a protected area in contravention of **section 14, 15, or 18**. 30
- (2) A person who contravenes **subsection (1)** commits an infringement offence and is liable to—
 - (a) an infringement fee of the amount prescribed in the regulations; or
 - (b) a fine imposed by a court not exceeding the amount prescribed in the regulations. 35

48 Relationship between infringement offences and other offences

- (1) ~~A person who is charged with, prosecuted for, or convicted of an offence against any of **sections 41 to 43** must not also be proceeded against for an infringement offence under **section 47** in respect of the same conduct.~~
- (2) ~~A person who is proceeded against under **section 47** for an infringement offence must not also be charged with or prosecuted for an offence against any of **sections 41 to 43** in respect of the same conduct.~~ 5

49 Proceedings for infringement offences

- (1) A person who is alleged to have committed an infringement offence may—
- (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or 10
- (b) be issued with an infringement notice under **section 51**.
- (2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957. 15
- (3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

50 Who may issue infringement notices

The Director-General may, in writing, authorise a ranger to issue infringement notices under this Act. 20

51 When infringement notice may be issued

A ranger authorised under **section 50** may issue an infringement notice to a person if the ranger believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

52 Revocation of infringement notice before payment made 25

- (1) The ranger may revoke an infringement notice before—
- (a) the infringement fee is paid; or
- (b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.
- (2) The ranger must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice. 30
- (3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 49(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

53 What infringement notice must contain 35

An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:

(a)	details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:	
(b)	the amount of the infringement fee:	
(c)	the address of the place where the infringement fee may be paid:	
(d)	how the infringement fee may be paid:	5
(e)	the time within which the infringement fee must be paid:	
(f)	a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:	
(g)	a statement that the person served with the notice has a right to request a hearing:	10
(h)	a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:	
(i)	any other matters prescribed in the regulations.	
54	How infringement notice may be served	
(1)	An infringement notice (or a copy of it) may be served on the person who the ranger believes is committing or has committed the infringement offence by—	15
(a)	delivering it to the person; or	
(b)	sending it to the person by prepaid post addressed to the person's last known place of residence or place of business.	
(2)	An infringement notice (or a copy of it) sent by post to a person under subsection (1)(b) is to be treated as having been served on the person when it was posted.	20
55	Payment of infringement fees	
	All infringement fees paid for infringement offences must be paid into a Crown Bank Account.	25
56	Reminder notices	
	A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.	
	<i>Disposal of seized property</i>	30
57	Disposal of seized property	
(1)	Before disposing of any property seized under this Act (other than fish, aquatic life, seaweed, or natural material released or disposed of under section 40), the Director-General must give the owner of the property, if known, notice of the Crown's intention to dispose of the property.	35

- (2) ~~If the owner has not lodged an appeal against the disposal within 90 days after the date on which the notice is given, the Director-General may dispose of the property.~~
- (3) ~~However, if the property is perishable,—~~
- (a) ~~the Director-General may dispose of the property at any time after giving notice; but~~ 5
- (b) ~~the Director-General must hold the proceeds (if any) of the disposal until the later of—~~
- (i) ~~90 days after the date on which the notice is given; and~~
- (ii) ~~the date on which an appeal against the disposal, lodged within 90 days after the date on which the notice is given, is resolved.~~ 10

Removal of structures

57 Removal of structures

- (1) This section applies if the owner or occupier of a structure within a high protection area— 15
- (a) constructs, alters, extends, removes, or demolishes the structure, or part of the structure, in contravention of this Act or the conditions of a permit granted under this Act; and
- (b) in relation to a contravention specified in **paragraph (a)**,—
- (i) commits an offence under this Act; or 20
- (ii) is convicted of an offence under this Act; or
- (iii) pays an infringement fee or pleads guilty or is found guilty of an infringement offence under this Act.
- (2) The Director-General or a ranger may, by notice in writing, require the owner or occupier of the structure to remove it or alter it at the owner's or occupier's cost within a period specified in the notice (being not less than 30 working days). 25
- (3) If the owner or occupier of the structure fails to comply with the notice issued under **subsection (2)**, the Director-General or ranger may give the owner or occupier 5 working days' notice in writing of their intention to remove or alter the structure. 30
- (4) On the expiry of the 5-working-day period the Director-General or ranger may, without further notice, remove or alter the structure.
- (5) The cost of the removal or alteration of the structure is a debt due to the Crown and may be recoverable by the department in a court of competent jurisdiction. 35

*Forfeiture***58 Forfeiture of property on conviction**

- (1) If a person is convicted of an offence against this Act, the following may be forfeited to the Crown by order of the court:
- (a) any property used in the commission of the offence, including any vessel, vehicle, or other conveyance: 5
 - (b) any fish, aquatic life, seaweed, or natural material retained under **section 40(4)** to which the offence related:
 - (c) any proceeds from the sale of any fish, aquatic life, seaweed, or natural material retained or disposed of by the Director-General under **section 40(4)** to which the offence related. 10
- (2) A person must not be discharged without conviction for an offence against this Act unless the court considers that, in the circumstances of the offending, it would be unjust to make an order of forfeiture under **subsection (1)**.
- (3) Items that are forfeited to the Crown under **subsection (1)**— 15
- (a) are forfeited to the Crown absolutely and without encumbrance; and
 - (b) may be disposed of as the Director-General thinks fit.

59 Forfeiture for infringement offence

- (1) If an infringement notice is issued to a person for an infringement offence, any fish, aquatic life, seaweed, or natural material in respect of which the infringement offence is committed, and any proceeds from the sale of any fish, aquatic life, seaweed or natural material under **section 40**, is forfeited to the Crown when the earliest of the following occurs: 20
- (a) the infringement fee for the offence is paid:
 - (b) a copy of a reminder notice for the infringement offence is filed, or a reminder notice is deemed to have been filed, in a court under section 21 of the Summary Proceedings Act 1957 before the close of the date that is 6 months after the date on which the offence is alleged to have been committed: 25
 - (c) the Director-General and the person enter into an arrangement under section 21(3A) of the Summary Proceedings Act 1957 allowing the person to pay the relevant infringement fee by instalments: 30
 - (d) the person is found guilty of, or pleads guilty of, the infringement offence.
- (2) A court may order that any property used in respect of the commission of an infringement offence (including, without limitation, a vessel or vehicle) be forfeited to the Crown if— 35

- (a) proceedings for an infringement offence are commenced by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; and
 - (b) a person is found guilty of, or pleads guilty of, the infringement offence.
- (3) Items that are forfeited to the Crown under this section— 5
 - (a) are forfeited to the Crown absolutely and without encumbrance; and
 - (b) may be disposed of as the Director-General thinks fit.
- 60 Interpretation of provisions relating to forfeited property**
- In **sections 61 to 64**, unless the context otherwise requires,—
- forfeited property** means anything forfeited to the Crown under **section 58 or 59** 10
- interest** means a legal or an equitable interest in that forfeited property that existed at the time of the forfeiture, but does not include an interest (including ownership) in a foreign vessel or foreign-owned New Zealand fishing vessel or foreign-operated fish carrier. 15
- 61 Application for relief**
- (1) Within 10 working days after the date of any forfeiture under **section 58 or 59**, the Director-General must publicly notify—
 - (a) the details of the forfeited property; and
 - (b) the rights of persons to apply under this section. 20
- (2) A person claiming an interest in any forfeited property may, within 35 working days after the date of the forfeiture, apply to the District Court for relief from the effect of forfeiture on that interest.
- (3) An application under **subsection (2)** must include—
 - (a) a description of the forfeited property in which the interest is claimed; and 25
 - (b) details of the interest claimed, including whether it is—
 - (i) legal or equitable; or
 - (ii) by way of security, including details of the security arrangement; or 30
 - (iii) noted on any register; and
 - (c) an estimate of the value of the forfeited property and the claimed interest in it.
- 62 Matters to be considered and determined by court**
- (1) The court must hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so. 35

- (2) Before making a decision in respect of an application made under **section 61**, the court must—
- (a) determine the matters set out in **subsection (3)**; and
 - (b) have regard to the matters set out in **subsection (4)**.
- (3) The court must determine— 5
- (a) the value of the forfeited property, which is the amount that the property would realise if sold at public auction in New Zealand; and
 - (b) the nature, extent, ~~and if possible the value~~ and, if possible, value of the applicant's interest in the property; and
 - (c) the cost to the Department of Conservation of— 10
 - (i) the prosecution of the offence or the pursuance of the infringement offence which resulted in the forfeiture; and
 - (ii) the seizure and holding, and anticipated cost of disposal, of the forfeited property; and
 - (iii) any court proceedings in respect of the seizure, holding, and disposal. 15
- (4) The court must have regard to—
- (a) the purpose of this Act; and
 - (b) the effect of the offence from which the forfeiture arose on— 20
 - (i) the seafloor protection area or high protection area; and
 - (ii) the people who use the seafloor protection area or high protection area; and
 - (c) the type of offending from which the forfeiture arose, including—
 - (i) the prevalence of the offending; and
 - (ii) the effect of the type of offending on the seafloor protection area or high protection area; and 25
 - (iii) the effect of the type of offending on the people who use the seafloor protection area or high protection area; and
 - (d) any history of offending of the persons from whose convictions (if any) the forfeiture arose; and 30
 - (e) the social and economic effects on the owner of the forfeited property, and their employees, of non-release of the forfeited property; and
 - (f) any economic benefits, actual or potential, to the owner of the forfeited property through the commission of the offence; and
 - (g) the costs determined under **subsection (3)(c)**; and 35
 - (h) any other matters the court considers relevant.

63 Decision of court on application

- (1) The court may make an order or orders providing relief (in whole or in part) from the effect of forfeiture on any of the interests determined under **section 62(3)**.
- (2) However,— 5
 - (a) ~~the court may make an order under **subsection (1)** only if it is necessary to avoid manifest injustice; and~~
 - (b) ~~if the owner of the forfeited property is the person who committed the offence in respect of which the property was forfeited, any order made under **subsection (1)** must not, together with any other order made under **subsection (1)** with respect to the same property, allow less than 40% of the forfeited property's value to remain forfeited to the Crown.~~ 10
- (2) However, the court may make an order under **subsection (1)** only if it is necessary to avoid manifest injustice.
- (3) ~~**Subsection (2)(b)** does not prevent the return of up to 100% of the value of any forfeited property to any owner of property other than the person who committed the offence in respect of which the property was forfeited.~~ 15
- (4) An order made under **subsection (1)** may, without limiting that subsection, order 1 or more of the following:
 - (a) the retention of the forfeited property by the Crown: 20
 - (b) the return of some or all of the forfeited property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:
 - (c) the sale of some or all of the forfeited property, with directions as to the manner of sale and dispersal of proceeds: 25
 - (d) the delivery of some or all of the forfeited property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) before that delivery:
 - (e) the reinstatement (despite the forfeiture) of any interest that was forfeited or cancelled as a result of a forfeiture. 30

64 Other matters relating to forfeiture

- (1) **Sections 61 to 63** do not require the Crown to pay, or secure the payment of, any sum of money to any person claiming an interest in forfeited property, other than the net proceeds of sale of forfeited property under a court order made under **section 63**. 35
- (2) For the purpose of assisting the court in determining any application for relief, the Director-General and any employee or agent of the Department of Conservation are entitled to appear before the court and be heard.

- (3) Any forfeiture under **section 58 or 59**, or any payment of a sum of money or delivery of property under **section 63(1)** to persons claiming an interest, must be in addition to, and not in substitution for, any other penalty that may be imposed by the court or by this Act.

Subpart 3—Regulations, review, and consequential amendments 5

Regulations

65 General regulations

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) providing for anything this Act says may or must be provided for by regulations: 10
 - (b) ~~providing for the marking of boundaries of seafloor protection areas and high protection areas:~~
 - (c) ~~providing for the management of seafloor protection areas and high protection areas:~~ protected areas, including (without limitation) regulating— 15
 - (i) access to protected areas:
 - (ii) visitor effects on protected areas:
 - (iii) anchoring within protected areas:
 - (iv) health and safety matters within protected areas:
 - (d) ~~providing for the setting of biodiversity objectives for seafloor protection areas:~~ 20
 - (e) prescribing penalties for infringement offences under this Act, which,—
 - (i) in the case of infringement fees, must not be more than \$1,000; and
 - (ii) in the case of maximum fines, must not be more than twice the amount of the infringement fee for the offence: 25
 - (f) prescribing offences for a breach of the regulations and maximum fines for those offences not exceeding \$2,500:
 - (g) prescribing infringement offences for a breach of the regulations and prescribing for those offences— 30
 - (i) infringement fees, which must not be more than \$1,000; and
 - (ii) maximum fines, which must not be more than twice the amount of the infringement fee for the offence:
 - (h) ~~providing for anything that is incidental to this Act or necessary for giving it full effect~~ incidental that is necessary for carrying out, or giving full effect to, this Act. 35

- (1A) Before recommending the making of regulations under **subsection (1)(c)**, the Minister must be satisfied that, if consultation with any person affected by the proposed regulations is appropriate, sufficient consultation with that person or their representative has occurred.
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5
- 66 Regulations for biodiversity objectives and associated restrictions for high protection areas**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that provide for— 10
- (a) the setting of biodiversity objectives for seafloor protection areas and high protection areas; and
- (b) the regulation of activities occurring within high protection areas (including the regulation of customary fishing) as reasonably necessary to give effect to the biodiversity objectives. 15
- (2) The Minister must not make a recommendation under **subsection (1)** unless the Minister—
- (a) has consulted the Minister responsible for the administration of the Fisheries Act 1996; and
- (b) is satisfied that the proposals for regulations— 20
- (i) were developed collaboratively with whānau, hapū, and iwi that exercise kaitiakitanga in the seafloor protection area or high protection area; and
- (ii) are based on the best available information, including mātauranga Māori; and 25
- (iii) if the proposals relate to the regulation of customary fishing, impose any restrictions on customary fishing only to the minimum extent reasonably necessary to give effect to the biodiversity objectives; and
- (c) is satisfied that, if consultation with any person affected by the proposed regulations is appropriate, sufficient consultation with that person or their representative has occurred. 30
- (2A) Regulations that set biodiversity objectives for each seafloor protection area and high protection area must be made under **subsection (1)(a)** no later than 2 years after the commencement of this Act. 35
- (3) Regulations made under this section ~~subsection (1)(b)~~ may provide for all or any of the following:
- (a) restrictions relating to when activities may occur:
- (b) restrictions relating to how activities may occur:

- (c) reporting requirements relating to activities:
 - (d) any other restrictions or requirements that the Minister considers necessary to give effect to the biodiversity objectives.
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 5
- 67 Regulations for additional management actions in high protection areas**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that provide for additional management actions in relation to activities that occur within high protection areas (including customary fishing). 10
- (2) Before making a recommendation under **subsection (1)**, the Minister must be satisfied that—
 - (a) biodiversity objectives and associated restrictions have been established by regulations made under **section 66** in relation to the high protection area; and 15
 - (b) there is evidence that the restrictions are not sufficient to achieve the biodiversity objectives; and
 - (c) the additional management actions are necessary to achieve the biodiversity objectives.
- (3) The Minister must not make a recommendation under **subsection (1)** unless the Minister is satisfied that the following persons have been consulted on the additional management actions: 20
 - (a) the Minister responsible for the administration of the Fisheries Act 1996:
 - (b) ~~the~~ whānau, hapū, and iwi that exercise kaitiakitanga in the high protection area. 25
- (4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Review

- 68 Ministerial review**
- (1) The Minister and the Minister responsible for the administration of the Fisheries Act 1996 must review the operation, effectiveness, and management of each of the following that are in place at the time of the review: 30
 - (a) the seafloor protection areas declared under **section 13**:
 - (b) the high protection areas declared under **section 17**.
- (2) A review must be initiated— 35
 - (a) before the expiry of 25 years after the commencement of this Act; and
 - (b) every 25 years after that; and

- (c) at any other time that the Ministers consider appropriate.
- (3) The Ministers must ensure that, as part of the review, there is reasonable opportunity for interested persons (including whānau, hapū, and iwi that exercise kaitiakitanga in any protected area subject to the review) to make submissions on the operation, effectiveness, and management of the seafloor protection areas and high protection areas specified in **subsection (1)**. 5
- (4) The Ministers must, within 2 years of the review being initiated,—
- (a) prepare a report on the review; and
- (b) present the report to the House of Representatives.

Consequential amendments

10

69 Consequential amendments

Amend the legislation specified in **Schedule 5** as set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

s 6

Part 1
Provisions relating to this Act as enacted

5

There are no transitional, savings, or related provisions in this Act as enacted.

Schedule 2

Marine reserves

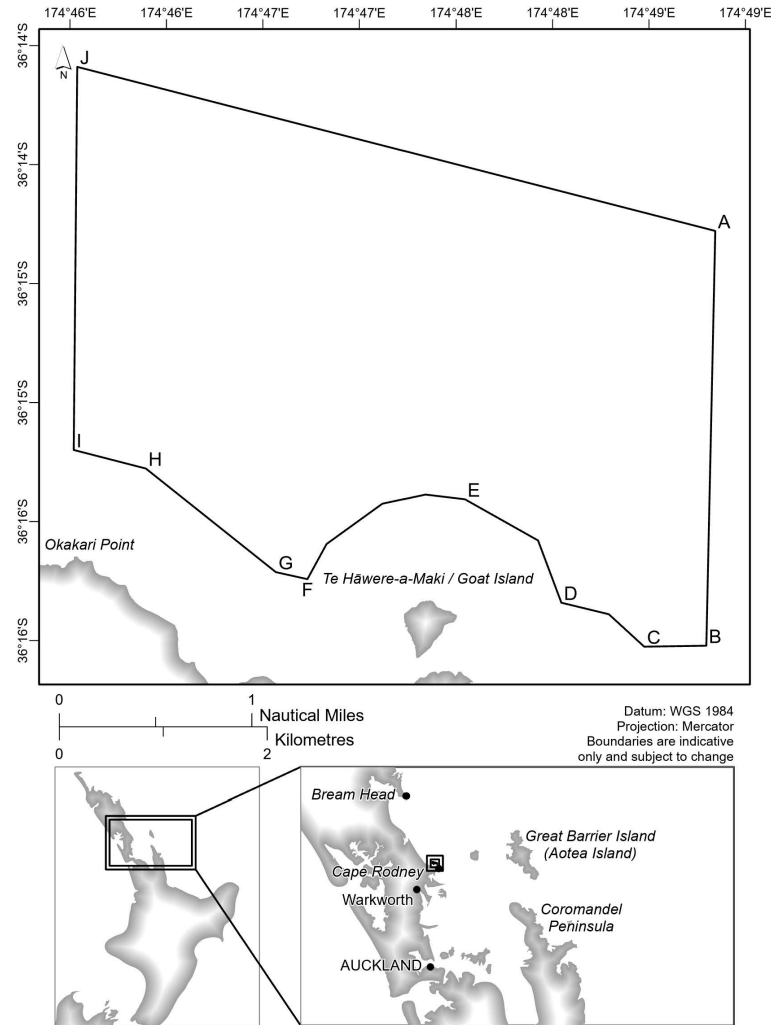
s 10

Cape Rodney-Okakari Point Extension Marine Reserve

Name of marine reserve	5
Cape Rodney-Okakari Point Extension Marine Reserve	
Description of marine reserve	
The area marked on the indicative map, where—	
(a) A is the point at 36°14.278'S and 174°49.344'E; and	
(b) B is the point at 36°16.021'S and 174°49.297'E; and	10
(c) C is the point at 36°16.025'S and 174°48.975'E; and	
(d) D is the point at 36°15.841'S and 174°48.546'E; and	
(e) E is the point at 36°15.406'S and 174°48.046'E; and	
(f) F is the point at 36°15.742'S and 174°47.231'E; and	
(g) G is the point at 36°15.712'S and 174°47.068'E; and	15
(h) H is the point at 36°15.277'S and 174°46.393'E; and	
(i) I is the point at 36°15.199'S and 174°46.019'E; and	
(j) J is the point at 36°13.589'S and 174°46.038'E.	

Indicative map

For reference, Cape Rodney-Okakari Point Extension Marine Reserve is indicated on the map, but the description overrides the map if they conflict.



*Whanganui A Hei (Cathedral Cove) Te Whanganui-o-Hei / Cathedral Cove
Extension Marine Reserve*

5

Name of marine reserve

Whanganui A Hei (Cathedral Cove) Te Whanganui-o-Hei / Cathedral Cove Extension Marine Reserve

Description of marine reserve

The area marked on the indicative map, where—

10

- (a) **A** is the point at 36°48.280'S and 175°50.318'E; and
- (b) **B** is the point at 36°49.491'S and 175°49.579'E; and

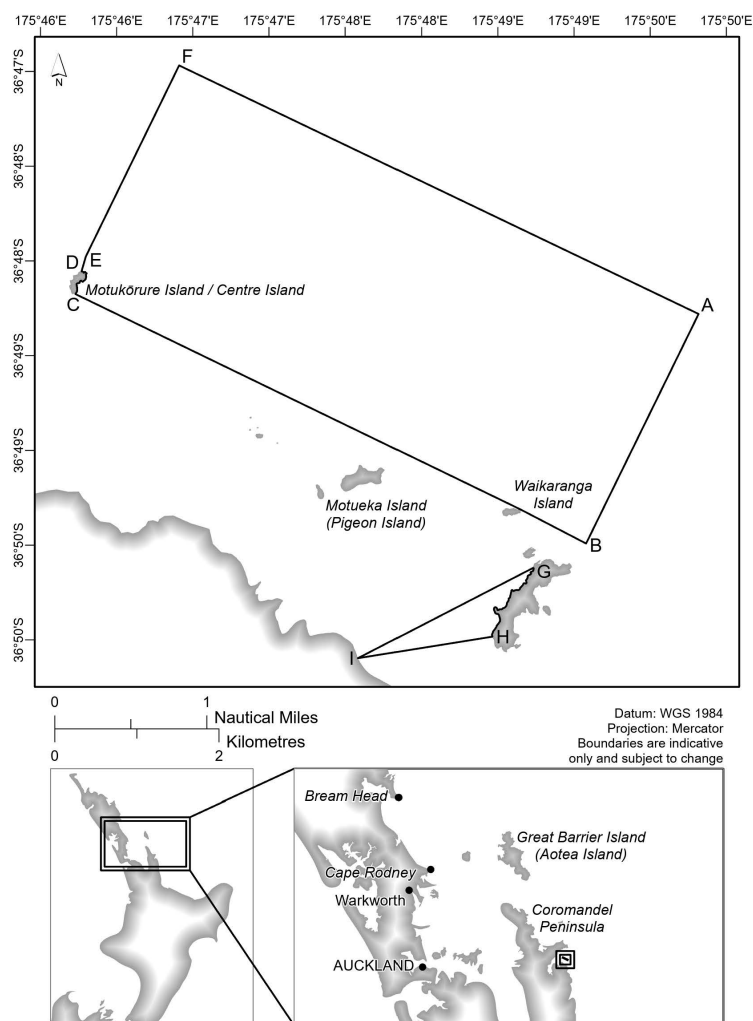
- (c) **C** is the point at 36°48.174'S and 175°46.229'E; and
- (d) **D** is the point at 36°48.055'S and 175°46.269'E; and
- (e) **E** is the point at 36°47.976'S and 175°46.298'E; and
- (f) **F** is the point at 36°46.968'S and 175°46.910'E; and
- (g) **G** is the point at 36°49.620'S and 175°49.231'E; and
- (h) **H** is the point at 36°49.982'S and 175°48.964'E; and
- (i) **I** is the point at 36°50.096'S and 175°48.084'E.

5

Indicative map

For reference, ~~Whanganui A Hei (Cathedral Cove)~~ Te Whanganui-o-Hei / Cathedral Cove Extension Marine Reserve is indicated on the map, but the description overrides the map if they conflict.

10



Schedule 3

Seafloor protection areas

s 13

~~Craddock~~ Craddock Channel Seafloor Protection Area

Name of seafloor protection area 5

~~Craddock~~ Craddock Channel Seafloor Protection Area

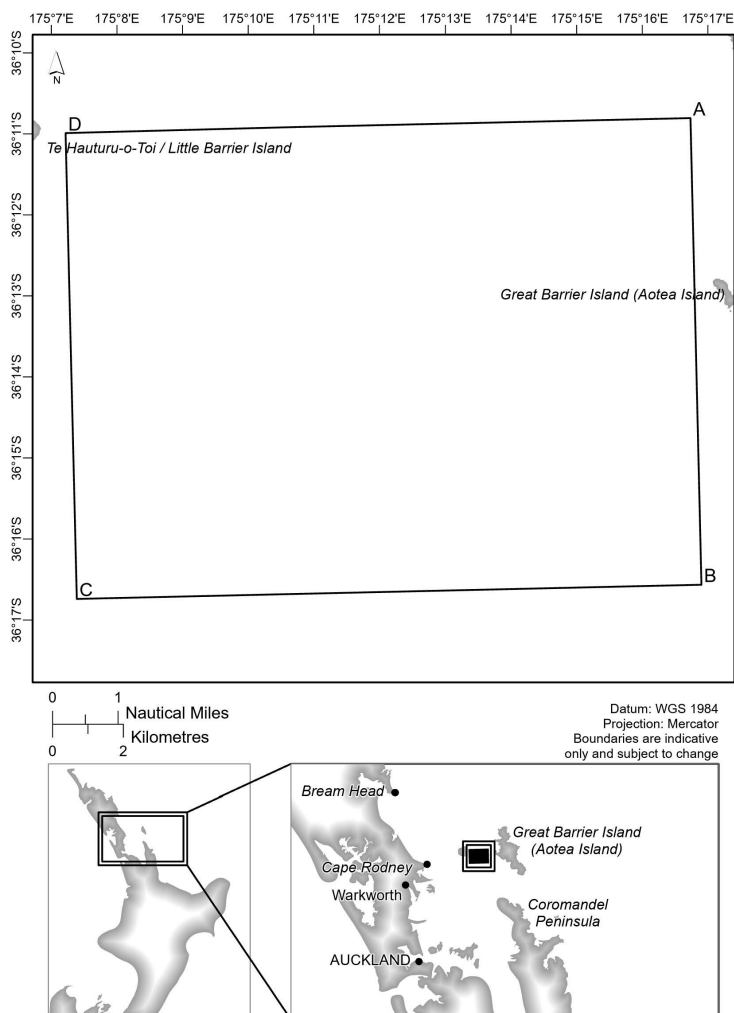
Description of seafloor protection area

The area marked on the indicative map, where—

- (a) **A** is the point at 36°10.804'S and 175°16.735'E; and
- (b) **B** is the point at 36°16.564'S and 175°16.902'E; and 10
- (c) **C** is the point at 36°16.739'S and 175°07.388'E; and
- (d) **D** is the point at 36°10.990'S and 175°07.217'E.

Indicative map

For reference, ~~Cradock~~ Cradock Channel Seafloor Protection Area is indicated on the map, but the description overrides the map if they conflict.



Cape Colville Seafloor Protection Area

Name of seafloor protection area

5

Cape Colville Seafloor Protection Area

Description of seafloor protection area

The area marked on the indicative map, where—

- (a) A is the point at 36°24.536'S and 175°24.176'E; and
- (b) B is the point at 36°28.260'S and 175°24.301'E; and
- (c) C is the point at 36°29.056'S and 175°20.377'E; and
- (d) D is the point at 36°25.369'S and 175°20.374'E; and

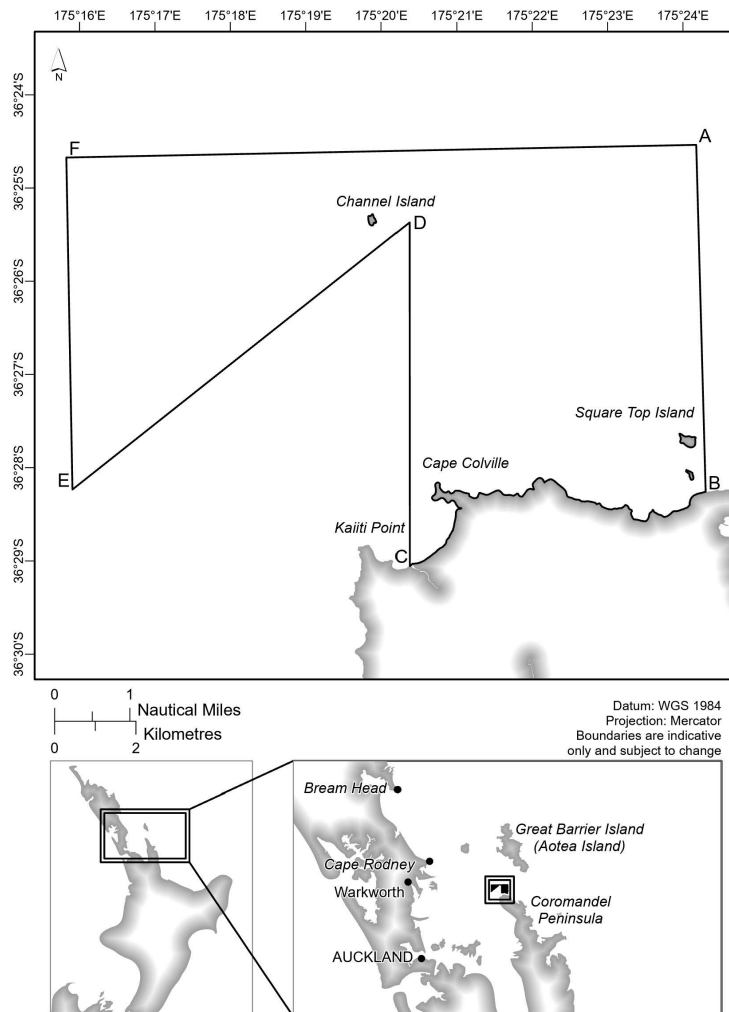
10

- (e) E is the point at 36°28.234'S and 175°15.906'E; and
 (f) F is the point at 36°24.672'S and 175°15.825'E.

Indicative map

For reference, the Cape Colville Seafloor Protection Area is indicated on the map, but the description overrides the map if they conflict.

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Mokohinau Islands Seafloor Protection Area

Name of seafloor protection area

Mokohinau Islands Seafloor Protection Area

Description of seafloor protection area

The area marked on the indicative map, where—

10

- (a) A is the point at 35°45.488'S and 175°12.432'E; and
 (b) B is the point at 36°01.594'S and 175°12.800'E; and

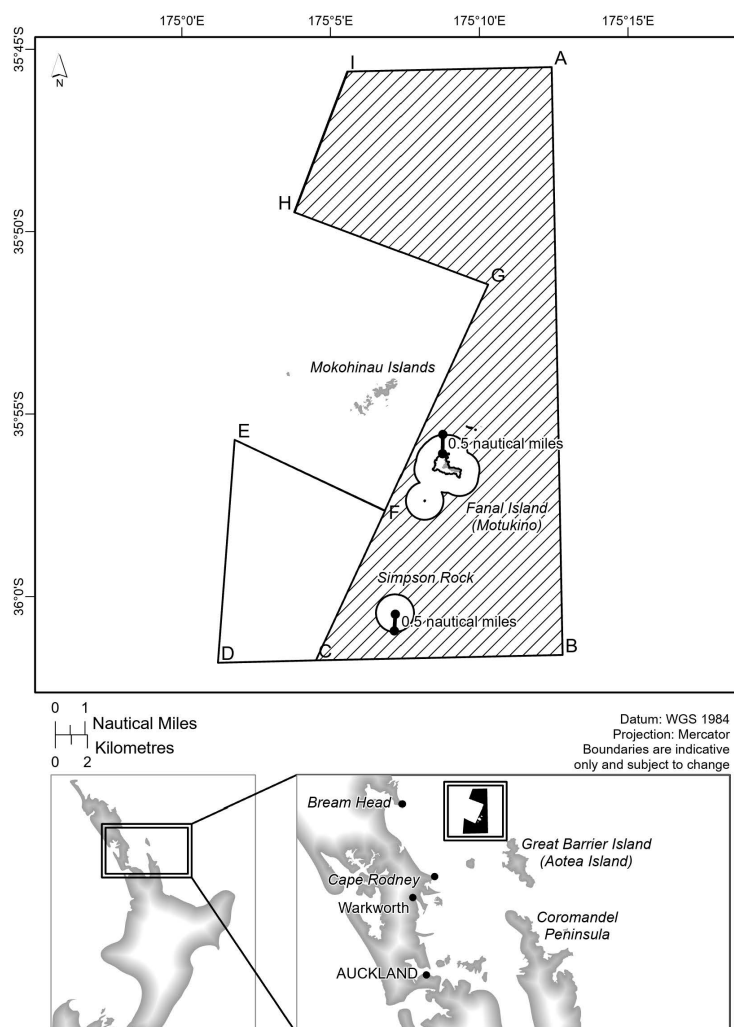
- (c) **C** is the point at 36°01.743'S and 175°04.512'E; and
- (d) **D** is the point at 36°01.799'S and 175°01.231'E; and
- (e) **E** is the point at 35°55.710'S and 175°01.790'E; and
- (f) **F** is the point at 35°57.643'S and 175°06.835'E; and
- (g) **G** is the point at 35°51.453'S and 175°10.296'E; and
- (h) **H** is the point at 35°49.469'S and 175°03.781'E; and
- (i) **I** is the point at 35°45.611'S and 175°05.567'E.

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Indicative map

For reference, the Mokohinau Islands Seafloor Protection Area is indicated on the map, but the description overrides the map if they conflict.

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*Kawau Bay Seafloor Protection Area***Name of seafloor protection area**

Kawau Bay Seafloor Protection Area

Description of seafloor protection area

The area marked on the indicative map, where—

5

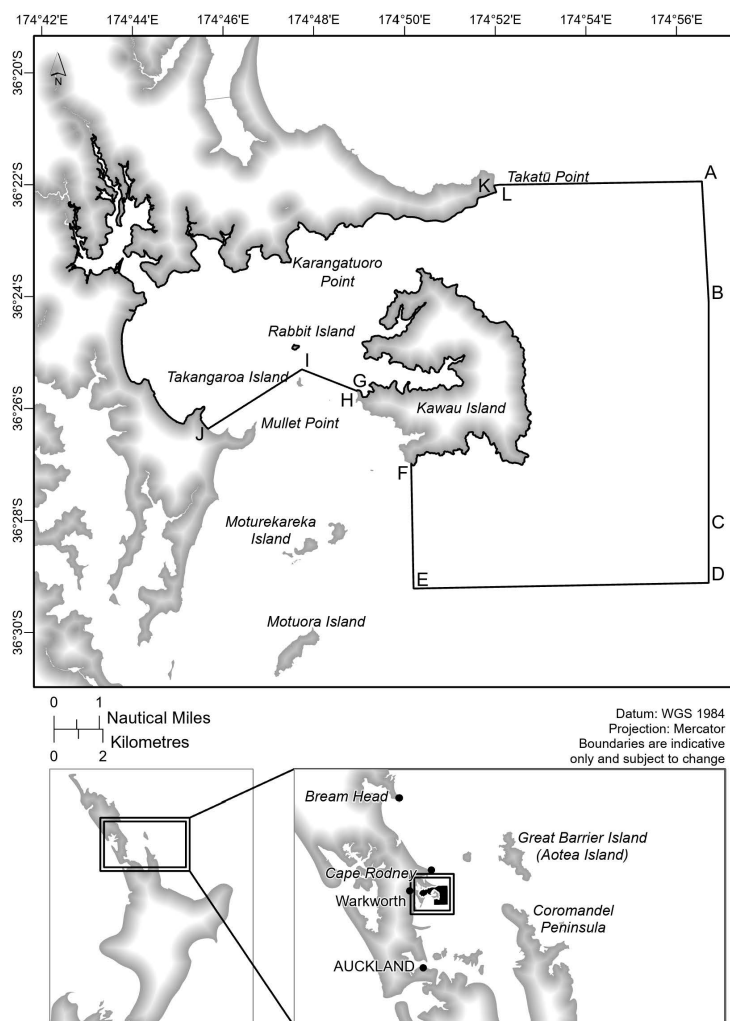
- (a) **A** is the point at 36°21.941'S and 174°56.561'E; and
- (b) **B** is the point at 36°24.091'S and 174°56.712'E; and
- (c) **C** is the point at 36°28.191'S and 174°56.712'E; and
- (d) **D** is the point at 36°29.114'S and 174°56.712'E; and
- (e) **E** is the point at 36°29.216'S and 174°50.197'E; and
- (f) **F** is the point at 36°26.983'S and 174°50.144'E; and
- (g) **G** is the point at 36°25.688'S and 174°48.950'E; and
- (h) **H** is the point at 36°25.681'S and 174°48.942'E; and
- (i) **I** is the point at 36°25.301'S and 174°47.742'E; and
- (j) **J** is the point at 36°26.363'S and 174°45.672'E; and
- (k) **K** is the point at 36°22.013'S and 174°51.977'E; and
- (l) **L** is the point at 36°22.000'S and 174°52.086'E.

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15

Indicative map

For reference, the Kawau Bay Seafloor Protection Area is indicated on the map, but the description overrides the map if they conflict.

*Tiritiri Matangi Seafloor Protection Area***Name of seafloor protection area**

5

Tiritiri Matangi Seafloor Protection Area

Description of seafloor protection area

The area marked on the indicative map, where—

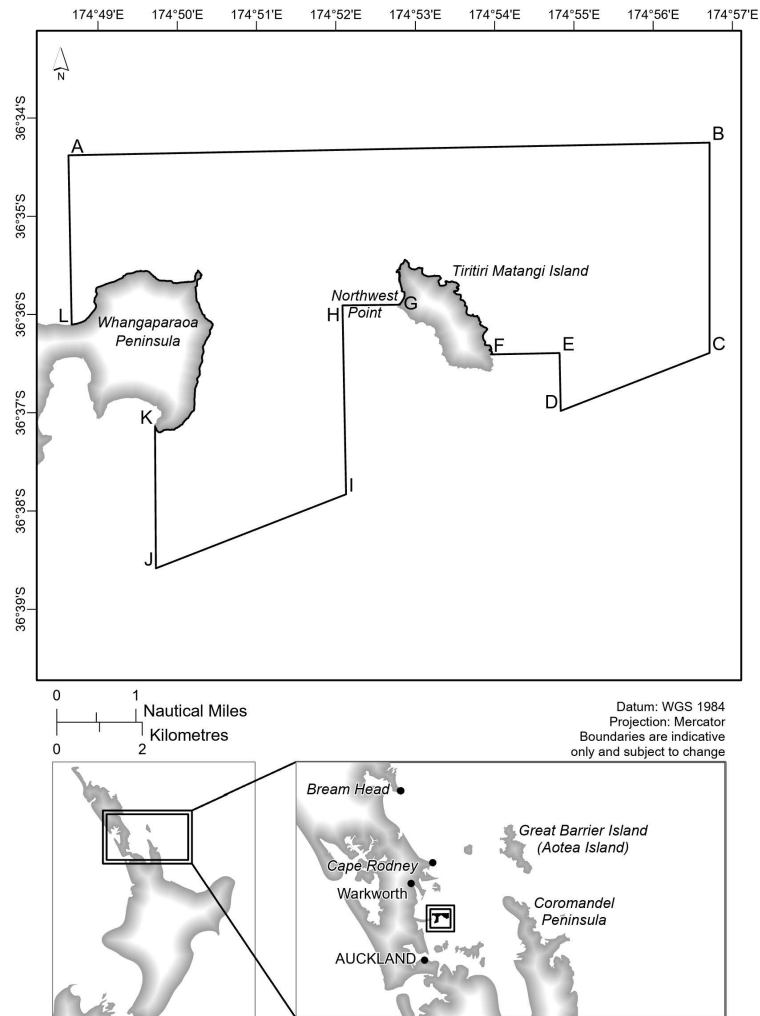
- (a) **A** is the point at ~~36°37.829'S and 174°52.131'E~~ 36°34.379'S and 174°48.628'E;
and
- (b) **B** is the point at ~~36°35.907'S and 174°52.085'E~~ 36°34.250'S and 174°56.712'E;
and

10

-
- (c) **C** is the point at ~~36°35.900'S and 174°52.803'E~~ 36°36.391'S and 174°56.712'E; and
- (d) **D** is the point at ~~36°36.406'S and 174°53.952'E~~ 36°36.981'S and 174°54.834'E; and
- (e) **E** is the point at 36°36.392'S and 174°54.819'E; and 5
- (f) **F** is the point at ~~36°36.981'S and 174°54.834'E~~ 36°36.406'S and 174°53.952'E; and
- (g) **G** is the point at ~~36°36.391'S and 174°56.712'E~~ 36°35.900'S and 174°52.803'E; and
- (h) **H** is the point at ~~36°34.250'S and 174°56.712'E~~ 36°35.907'S and 174°52.085'E; and 10
- (i) **I** is the point at ~~36°34.379'S and 174°48.628'E~~ 36°37.829'S and 174°52.131'E; and
- (j) **J** is the point at ~~36°36.103'S and 174°48.665'E~~ 36°38.583'S and 174°49.731'E; and 15
- (k) **K** is the point at 36°37.138'S and 174°49.720'E; and
- (l) **L** is the point at ~~36°38.583'S and 174°49.731'E~~ 36°36.103'S and 174°48.665'E.

Indicative map

For reference, the Tiritiri Matangi Seafloor Protection Area is indicated on the map, but the description overrides the map if they conflict.



Schedule 4

High protection areas

s 17

Te Hauturu-o-Toi / Little Barrier Island High Protection Area

Name of high protection area 5

Te Hauturu-o-Toi / Little Barrier Island High Protection Area

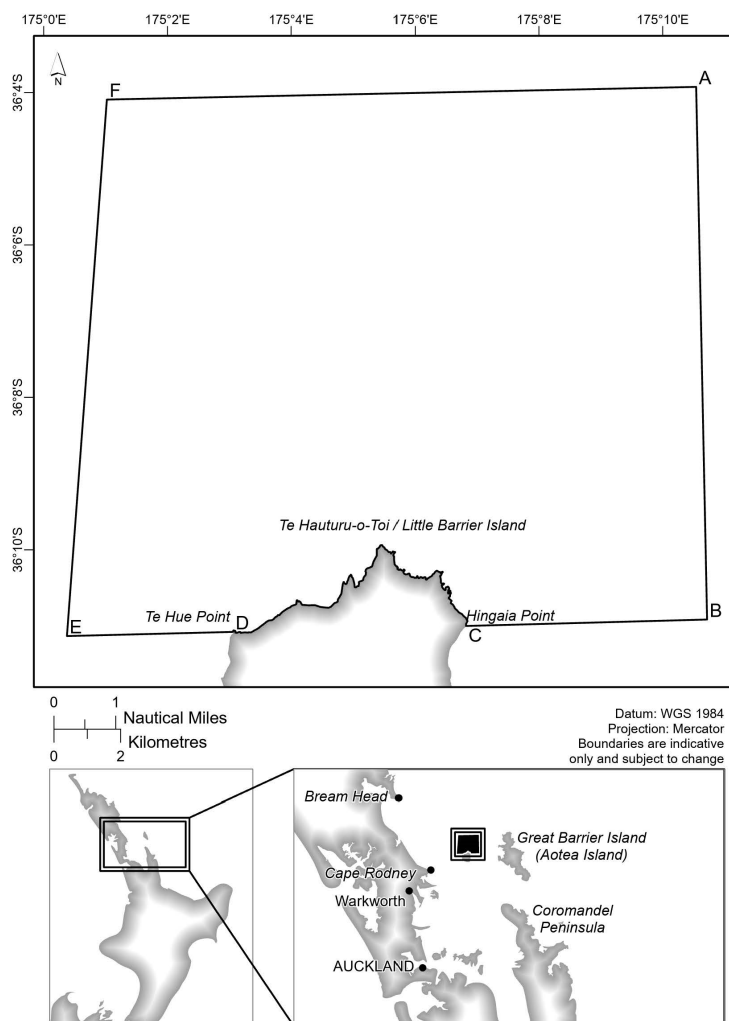
Description of high protection area

The area marked on the indicative map, where—

- (a) **A** is the point at 36°03.924'S and 175°10.541'E; and
- (b) **B** is the point at 36°10.915'S and 175°10.718'E; and 10
- (c) **C** is the point at 36°10.998'S and 175°06.819'E; and
- (d) **D** is the point at 36°11.076'S and 175°03.059'E; and
- (e) **E** is the point at 36°11.130'S and 175°00.375'E; and
- (f) **F** is the point at 36°04.091'S and 175°01.021'E.

Indicative map

For reference, the Te Hauturu-o-Toi / Little Barrier Island High Protection Area is indicated on the map, but the description overrides the map if they conflict.

*Slipper Island / Whakahau High Protection Area***Name of high protection area**

5

Slipper Island / Whakahau High Protection Area

Description of high protection area

The area marked on the indicative map, where—

- (a) **A** is the point at 37°02.852'S and 175°57.738'E; and
- (b) **B** is the point at 37°04.893'S and 175°57.817'E; and
- (c) **C** is the point at 37°04.958'S and 175°55.182'E; and
- (d) **D** is the point at 37°02.917'S and 175°55.104'E; and

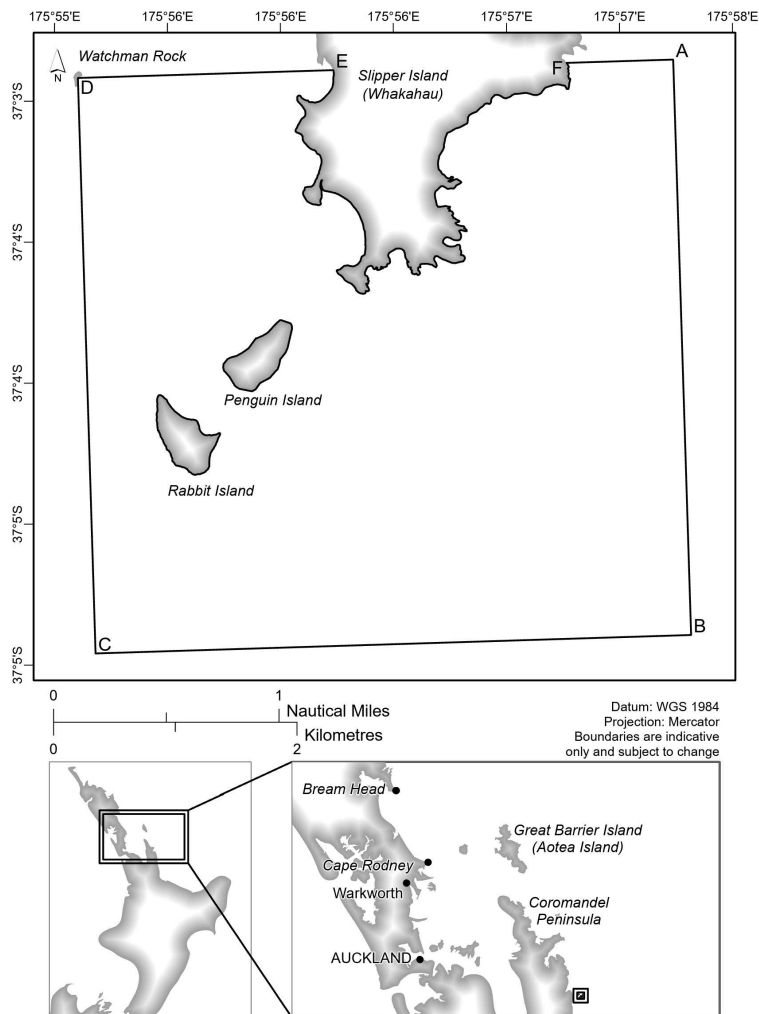
10

- (e) E is the point at 37°02.889'S and 175°56.234'E; and
 (f) F is the point at 37°02.864'S and 175°57.266'E.

Indicative map

For reference, the Slipper Island / Whakahau High Protection Area is indicated on the map, but the description overrides the map if they conflict.

5



Motukawao Islands High Protection Area

Name of high protection area

Motukawao Islands High Protection Area

Description of high protection area

The area marked on the indicative map, where—

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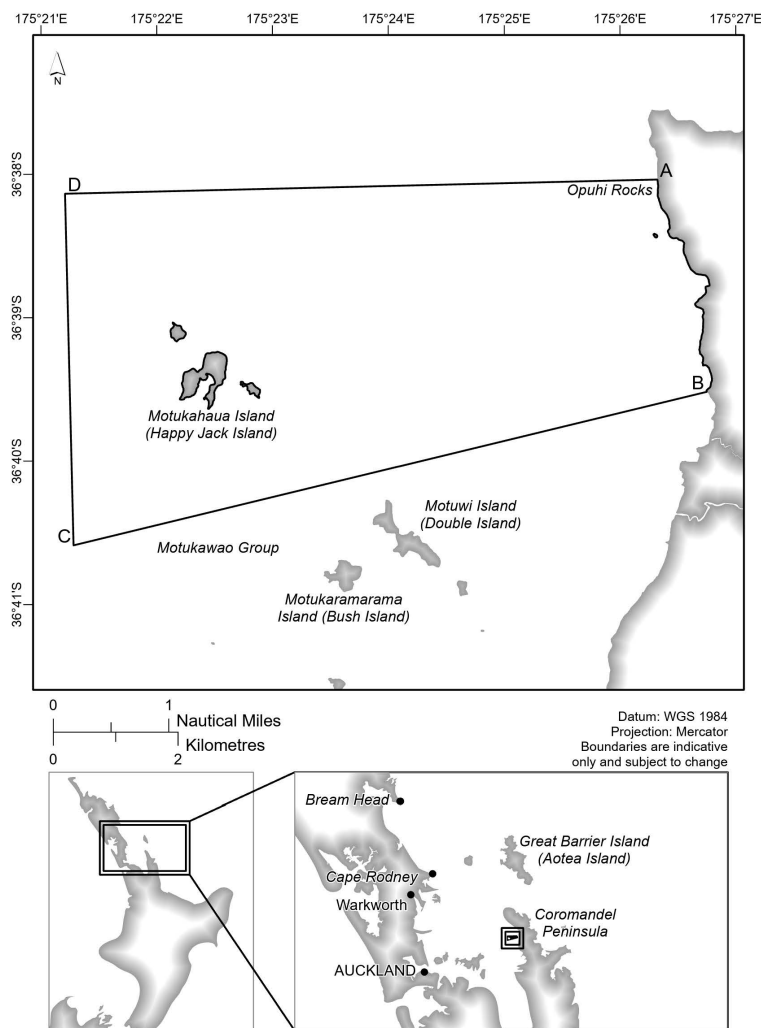
- (a) A is the point at 36°38.036'S and 175°26.323'E; and
 (b) B is the point at 36°39.517'S and 175°26.750'E; and

- (c) C is the point at 36°40.587'S and 175°21.281'E; and
 (d) D is the point at 36°38.135'S and 175°21.208'E.

Indicative map

For reference, the Motukawao Islands High Protection Area is indicated on the map, but the description overrides the map if they conflict.

5



Rotoroa Island Pakatoa and Tarahiki / Shag Island High Protection Area

Name of high protection area

Rotoroa Island Pakatoa and Tarahiki / Shag Island High Protection Area

Description of high protection area

The area marked on the indicative map, where—

10

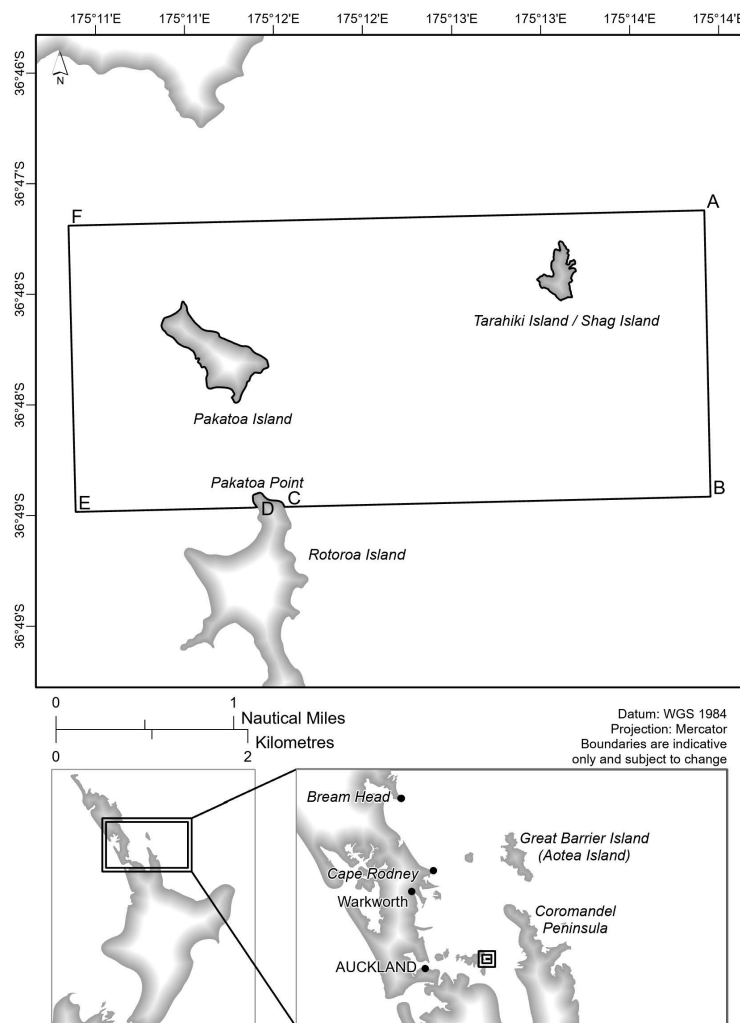
- (a) A is the point at 36°47.120'S and 175°14.420'E; and

- (b) **B** is the point at 36°48.414'S and 175°14.455'E; and
- (c) **C** is the point at 36°48.460'S and 175°12.063'E; and
- (d) **D** is the point at 36°48.463'S and 175°11.909'E; and
- (e) **E** is the point at 36°48.483'S and 175°10.889'E; and
- (f) **F** is the point at 36°47.189'S and 175°10.849'E.

5

Indicative map

For reference, the ~~Rotoroa Island~~ Pakatoa and Tarahiki / Shag Island High Protection Area is indicated on the map, but the description overrides the map if they conflict.



Rangitoto and Motutapu High Protection Area

Name of high protection area

Rangitoto and Motutapu High Protection Area

10

Description of high protection area

The area marked on the indicative map, where—

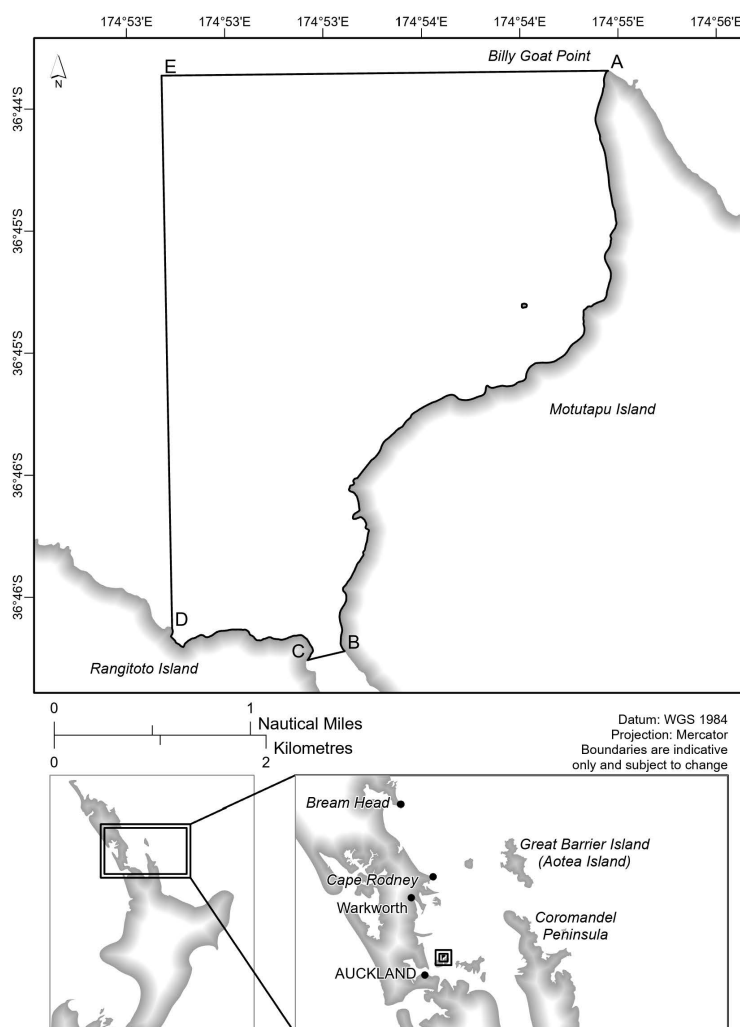
- (a) **A** is the point at 36°43.842'S and 174°54.950'E; and
- (b) **B** is the point at 36°46.221'S and 174°53.612'E; and
- (c) **C** is the point at 36°46.257'S and 174°53.422'E; and
- (d) **D** is the point at 36°46.127'S and 174°52.733'E; and
- (e) **E** is the point at 36°43.862'S and 174°52.679'E.

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Indicative map

For reference, the Rangitoto and Motutapu High Protection Area is indicated on the map, but the description overrides the map if they conflict.

10



*Cape Colville High Protection Area***Name of high protection area**

Cape Colville High Protection Area

Description of high protection area

The area marked on the indicative map, where—

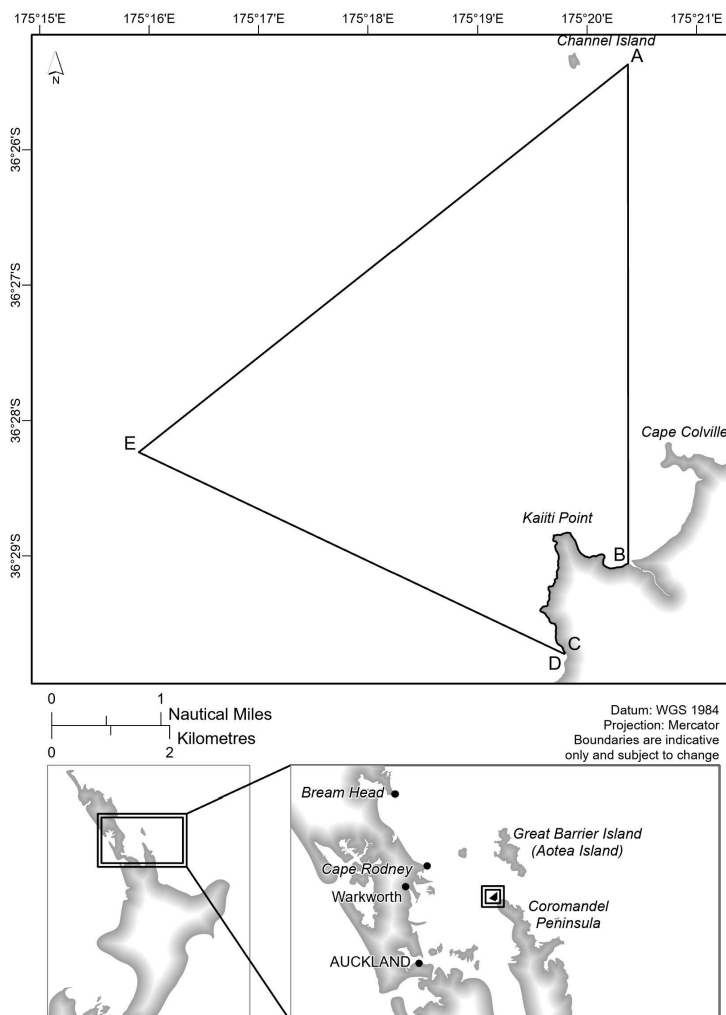
5

- (a) **A** is the point at 36°25.369'S and 175°20.374'E; and
- (b) **B** is the point at 36°29.056'S and 175°20.377'E; and
- (c) **C** is the point at 36°29.715'S and 175°19.798'E; and
- (d) **D** is the point at ~~36°29.715'S and 175°19.798'E~~ 36°29.723'S and 175°19.791'E; and
- (e) **E** is the point at ~~36°29.723'S and 175°19.791'E~~; and 36°28.234'S and 175°15.906'E.
- (f) **F** is the point at ~~36°28.234'S and 175°15.906'E~~.

10

Indicative map

For reference, the Cape Colville High Protection Area is indicated on the map, but the description overrides the map if they conflict.

*Mokohinau Islands High Protection Area***Name of high protection area**

5

Mokohinau Islands High Protection Area

Description of high protection area

The area marked on the indicative map, where—

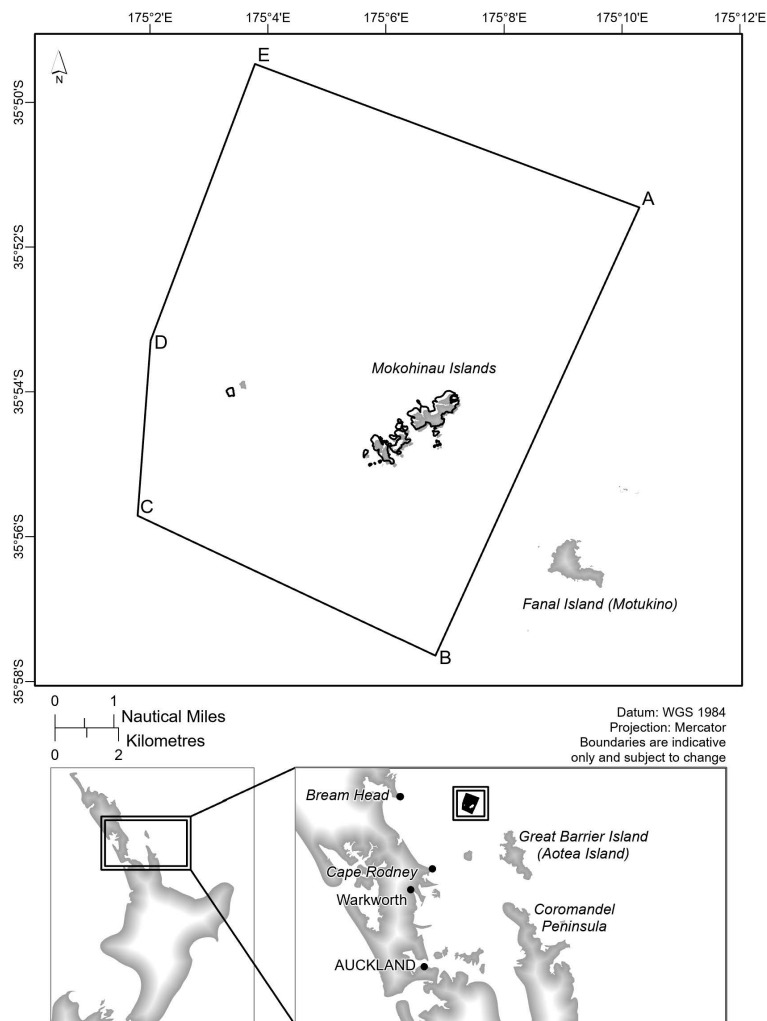
- (a) A is the point at 35°51.453'S and 175°10.296'E; and
- (b) B is the point at 35°57.643'S and 175°06.835'E; and
- (c) C is the point at 35°55.710'S and 175°01.790'E; and
- (d) D is the point at 35°53.290'S and 175°02.011'E; and

10

(e) E is the point at 35°49.469'S and 175°03.781'E.

Indicative map

For reference, the Mokohīnaui Islands High Protection Area is indicated on the map, but the description overrides the map if they conflict.



Aldermen Islands / Te Ruamāhūa-Ruamahua (north) High Protection Area 5

Name of high protection area

Aldermen Islands / Te Ruamāhūa-Ruamahua (north) High Protection Area

Description of high protection area

The area marked on the indicative map, where—

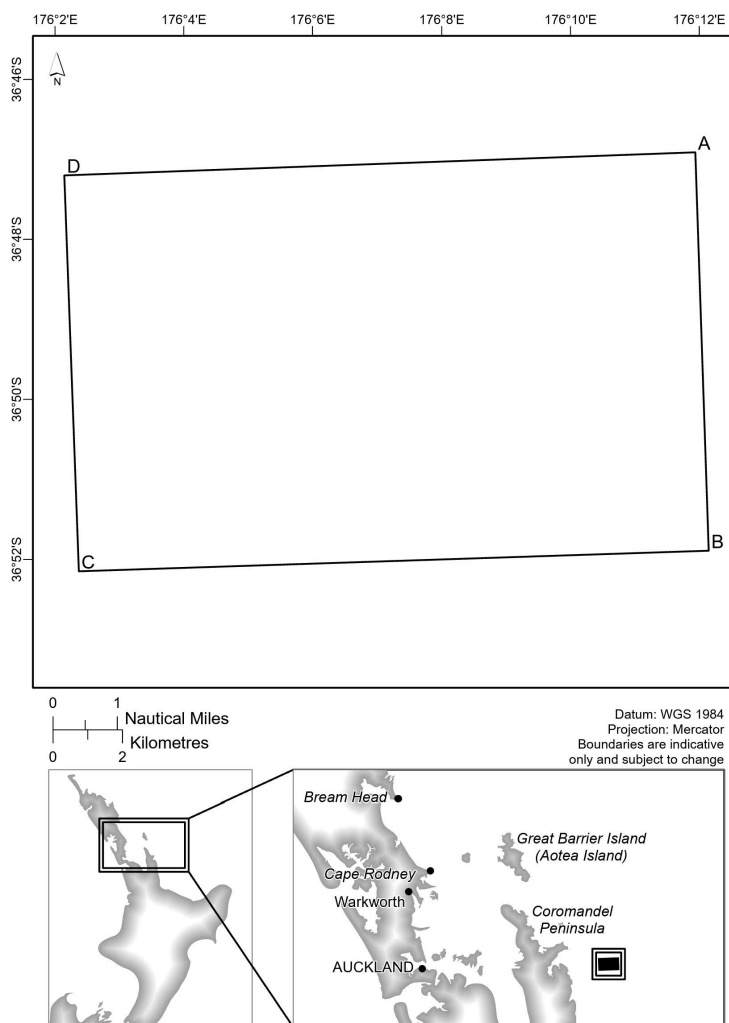
- (a) A is the point at 36°46.912'S and 176°11.939'E; and 10
- (b) B is the point at 36°51.891'S and 176°12.147'E; and
- (c) C is the point at 36°52.148'S and 176°02.370'E; and

(d) **D** is the point at 36°47.201'S and 176°02.144'E.

Indicative map

For reference, the Aldermen Islands / ~~Te Ruamāhua~~ Ruamahua (north) High Protection Area is indicated on the map, but the description overrides the map if they conflict.

5



Aldermen Islands / ~~Te Ruamāhua~~ Ruamahua (south) High Protection Area

Name of high protection area

Aldermen Islands / ~~Te Ruamāhua~~ Ruamahua (south) High Protection Area

Description of high protection area

The area marked on the indicative map, where—

10

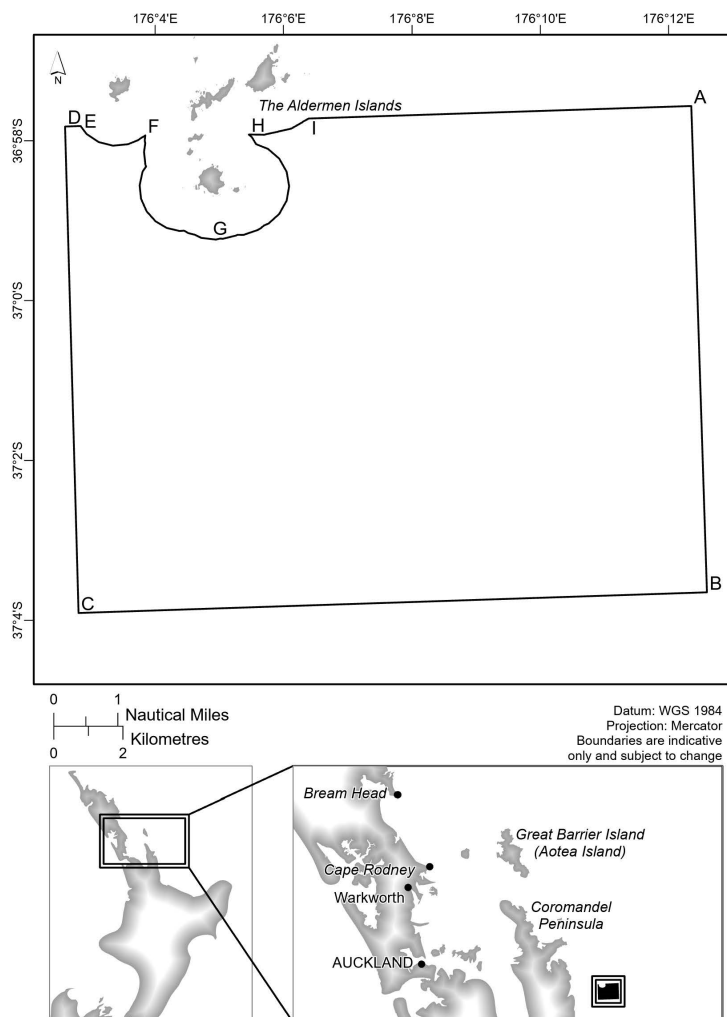
- (a) **A** is the point at 36°57.564'S and 176°12.354'E; and
- (b) **B** is the point at 37°03.649'S and 176°12.598'E; and

- (c) **C** is the point at 37°03.908'S and 176°02.806'E; and
- (d) **D** is the point at 36°57.821'S and 176°02.596'E; and
- (e) **E** is the point at 36°57.815'S and 176°02.838'E; and
- (f) **F** is the point at 36°57.932'S and 176°03.847'E; and
- (g) **G** is the point at 36°59.224'S and 176°05.013'E; and
- (h) **H** is the point at 36°57.921'S and 176°05.462'E; and
- (i) **I** is the point at 36°57.721'S and 176°06.396'E.

5

Indicative map

For reference, the Aldermen Islands / Te Ruamāhūa-Ruamahua (south) High Protection Area is indicated on the map, but the description overrides the map if they conflict. 10



*Kawau Bay High Protection Area***Name of high protection area**

Kawau Bay High Protection Area

Description of high protection area

The area marked on the indicative map, where—

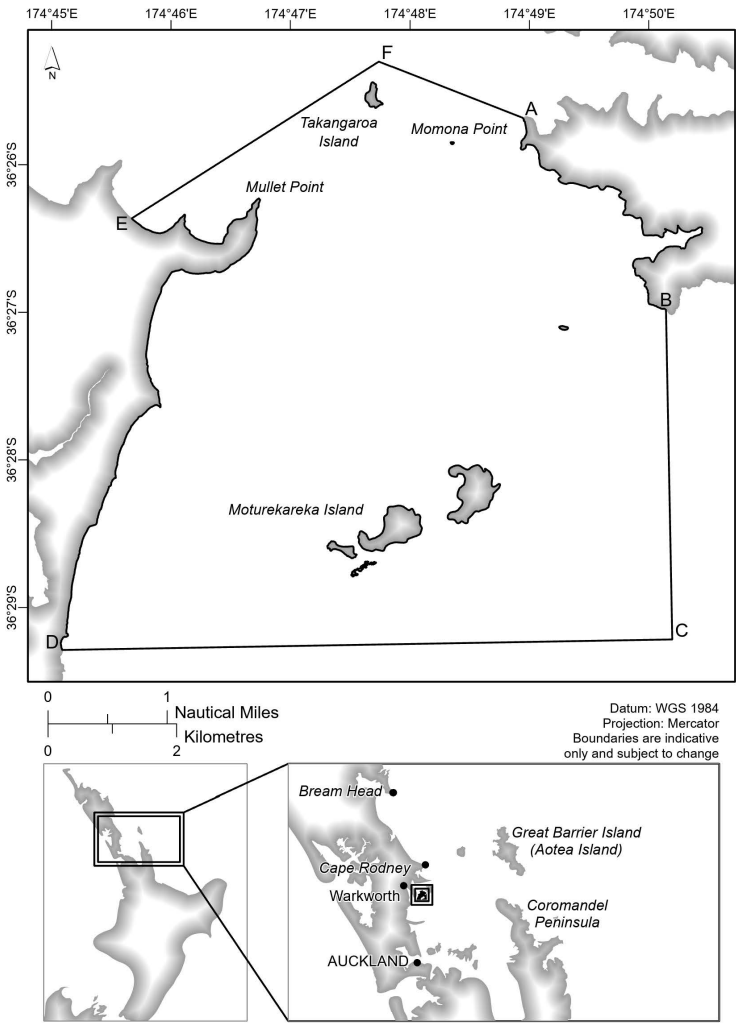
5

- (a) **A** is the point at 36°25.681'S and 174°48.942'E; and
- (b) **B** is the point at 36°26.983'S and 174°50.144'E; and
- (c) **C** is the point at 36°29.216'S and 174°50.197'E; and
- (d) **D** is the point at 36°29.287'S and 174°45.090'E; and
- (e) **E** is the point at 36°26.363'S and 174°45.672'E; and
- (f) **F** is the point at 36°25.301'S and 174°47.742'E.

10

Indicative map

For reference, the Kawau Bay High Protection Area is indicated on the map, but the description overrides the map if they conflict.



Tiritiri Matangi High Protection Area

Name of high protection area

5

Tiritiri Matangi High Protection Area

Description of high protection area

The area marked on the indicative map, where—

- (a) **A** is the point at 36°37.829'S and 174°52.131'E; and
- (b) **B** is the point at 36°35.907'S and 174°52.085'E; and
- (c) **C** is the point at 36°35.900'S and 174°52.803'E; and
- (d) **D** is the point at 36°36.406'S and 174°53.952'E; and

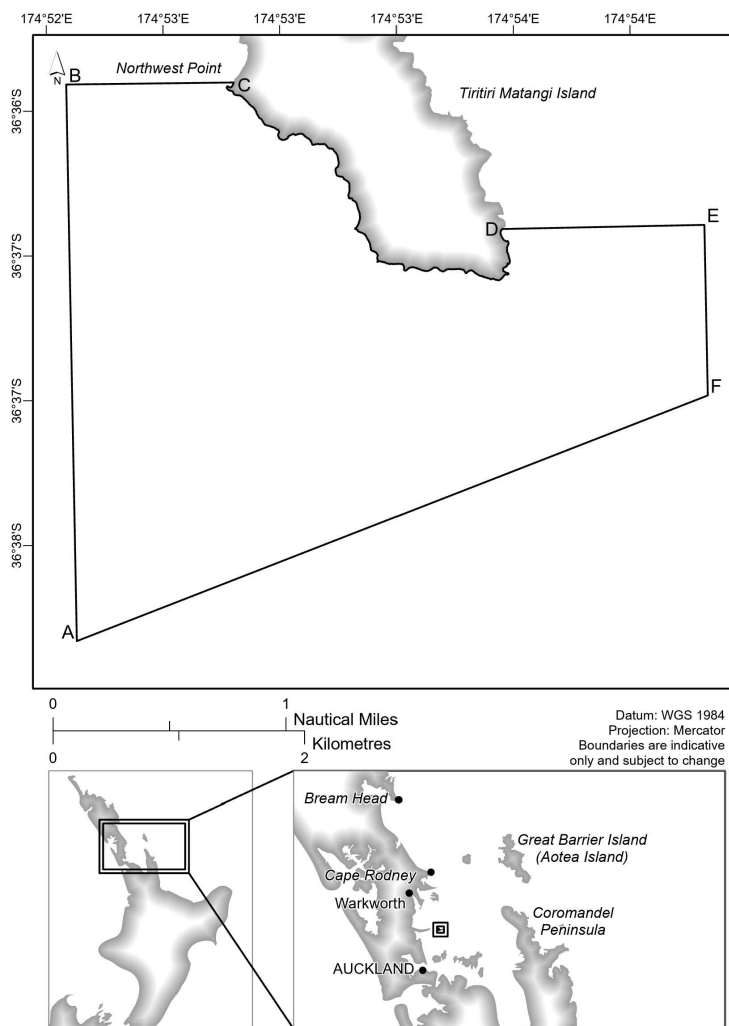
10

- (e) E is the point at 36°36.392'S and 174°54.819'E; and
 (f) F is the point at 36°36.981'S and 174°54.834'E.

Indicative map

For reference, the Tiritiri Matangi High Protection Area is indicated on the map, but the description overrides the map if they conflict.

5



Ōtata / Noises Island The Noises High Protection Area

Name of high protection area

Ōtata / Noises Island The Noises High Protection Area

Description of high protection area

The area marked on the indicative map, where—

10

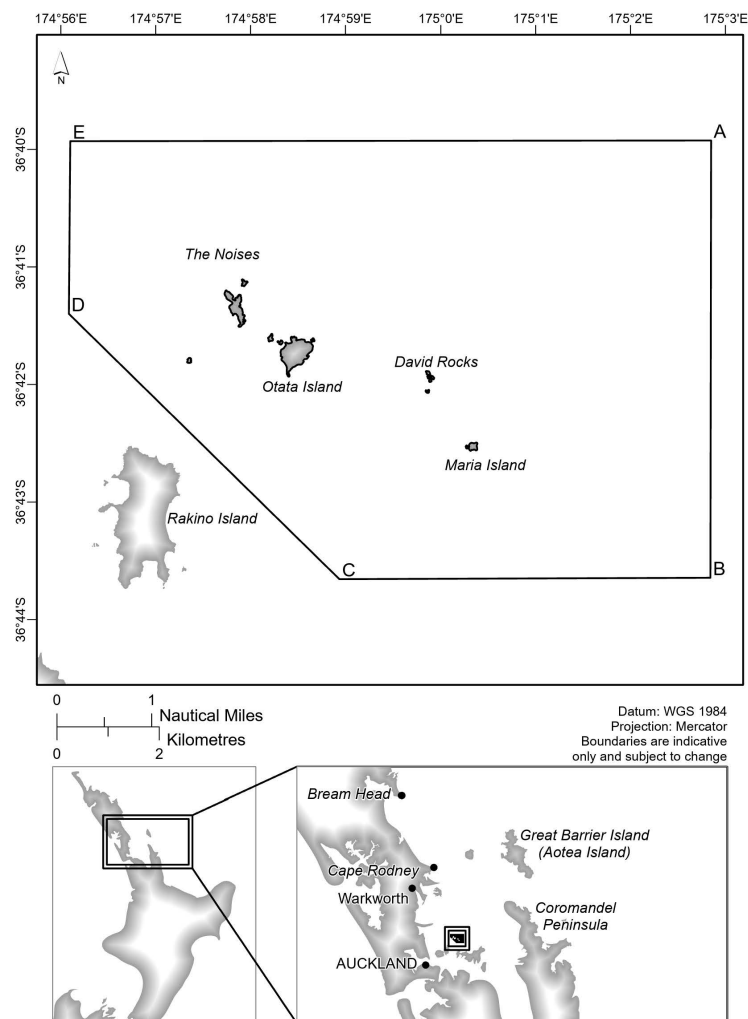
- (a) A is the point at 36°39.924'S and 175°02.849'E; and

- (b) **B** is the point at 36°43.643'S and 175°02.842'E; and
- (c) **C** is the point at 36°43.655'S and 174°58.936'E; and
- (d) **D** is the point at 36°41.399'S and 174°56.085'E; and
- (e) **E** is the point at 36°39.930'S and 174°56.100'E.

Indicative map

5

For reference, the ~~Ōtata / Noises Island~~ The Noises High Protection Area is indicated on the map, but the description overrides the map if they conflict.



Schedule 5

Consequential amendments

s 69

Part 1

Amendments to Acts

5

Crown Minerals Act 1991 (1991 No 70)

In Schedule 4, after item 14, insert:

15 All high protection areas declared by **section 17** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**.

16 All seafloor protection areas declared by **section 13** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**. 10

Environment Act 1986 (1986 No 127)

In the Schedule, insert in its appropriate alphabetical order:

Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72) 15

After section 7(2)(g), insert:

(gaaa) Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**:

Hauraki Gulf Marine Park Act 2000 (2000 No 1)

After section 33(2)(h), insert: 20

(i) all high protection areas declared by **section 17** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**:

(j) all seafloor protection areas declared by **section 13** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**.

In section 37(1), replace “marine reserve,” with “a marine reserve, a high protection area, a seafloor protection area.” 25

After section 40(a), insert:

(aa) remove any seafloor protection area or high protection area from the Park; or

In Schedule 1, insert in its appropriate alphabetical order: 30

Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, after the item relating to ~~section 50(1) of the Gas Act 1992~~ section 95 of the Geographical Indications Registration Act 2006, insert:

Search and Surveillance Act 2012 (2012 No 24)—continued

Hauraki Gulf / Tikapa Moana Marine Protection Act 2023	38(2)	Ranger may, for the purposes of monitoring compliance with the Hauraki Gulf / Tikapa Moana Marine Protection Act 2023 and any requirements imposed by that Act, require a person to stop, or to stop any vehicle, vessel, or conveyance in that person's control, to answer any questions reasonably necessary to establish whether the person is complying with that Act, and to produce certain documents	All (except subpart 3)
	39(2) and (3)	Ranger may stop, enter, and search any vehicle, vessel, aircraft, or structure, or open and search any parcel package, container, or luggage, in the control of a person, and may exercise certain powers of seizure, if the ranger reasonably believes that the person has committed an offence against the Hauraki Gulf / Tikapa Moana Marine Protection Act 2023 or any regulations made under that Act	All (except subpart 3)
	40(2) and (4)	<u>Ranger may exercise certain seizure powers in relation to fish, aquatic life, seaweed, or natural material if the ranger sights or finds any fish, aquatic life, seaweed, or natural material that the ranger believes on reasonable grounds was removed from a protected area in contravention of the Hauraki Gulf / Tikapa Moana Marine Protection Act 2023</u>	<u>All (except subpart 3)</u>

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (ih), insert:

- (ii) **section 51** of the Hauraki Gulf / Tikapa Moana Marine Protection Act **2023**; or

Part 2

Amendments to secondary legislation

Land Transport (Road User) Rule 2004 (SR 2004/427)

After rule 8.5(1)(ab)(iii), insert:

- (iv) a ranger (as defined in **section 5** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**) to exercise a power to stop conferred on the ranger under **section 38 or 39** of that Act; or

Resource Management (Marine Pollution) Regulations 1998 (SR 1998/208)

After regulation 11(2)(e), insert:

- (f) more than 200 metres (1.108 nautical miles) from a high protection area declared by **section 17** of the Hauraki Gulf / Tīkapa Moana Marine Protection Act **2023**.

Legislative history

22 August 2023
29 August 2023

Introduction (Bill 282–1)
First reading and referral to Environment Committee