

Kermadec Ocean Sanctuary Bill

Government Bill

As reported from the Local Government and Environment Committee

Commentary

Recommendation

The Local Government and Environment Committee has examined the Kermadec Ocean Sanctuary Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The Kermadec Ocean Sanctuary Bill is an omnibus bill as it proposes legislative amendments on an interrelated topic that would implement a single broad policy.

The bill mainly seeks to amend the following Acts:

- Biosecurity Act 1993
- Conservation Act 1987
- Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
- Environmental Protection Authority Act 2011
- Fisheries Act 1996.

If the bill proceeds, it would be split into two bills at the Committee of the whole House stage. Parts 1 and 2, and Schedules 1 and 2, would be debated as the Kermadec Ocean Sanctuary Bill. Upon enactment, this legislation would be listed in Schedule 1 of the Conservation Act 1987.

Part 3 and Schedule 3 would be debated as the Kermadec Ocean Sanctuary (Related Amendments) Bill.

Purpose of the bill

The purpose of the bill is to establish a new 620,000 square kilometre fully-protected marine sanctuary. The sanctuary would be located around the Kermadec Islands above the North Island of New Zealand and would cover approximately 15 percent of New Zealand's exclusive economic zone. This area is home to a wide variety of marine species.

The New Zealand Government has jurisdiction under Article 56 of the United Nations Convention on the Law of the Sea (UNCLOS) to, among other things, protect and preserve the marine environment within New Zealand's exclusive economic zone. Article 192 also imposes a general obligation on States to protect and preserve the marine environment.

Fishing, mining-related activities, the disturbance or removal of living or non-living material, the dumping of waste or other matter, and actions that cause damaging vibrations, would be prohibited in the sanctuary. These prohibitions would be enforced under the existing Fisheries Act and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act offence regimes.

Under the Fisheries Act and Articles 61 and 62 of UNCLOS, no other State could allege a right to access the fisheries resources within the proposed sanctuary without New Zealand having expressed a surplus allowable catch within the area. Permission would also need to be granted by the responsible Minister.

The bill would permit the passage of ships and planes, marine scientific research, and some other activities such as the laying of submarine cables and pipelines.

Research that would otherwise breach one of the sanctuary's prohibitions would need to be approved by the Environmental Protection Authority (EPA).

A new conservation board would be established to develop a conservation management strategy for the sanctuary, as well as for the Kermadec Islands and the Kermadec marine reserve. The board would be made up of seven members appointed by the responsible Minister. Two of these would be appointed on the nomination of Ngāti Kuri and Te Aupouri (iwi with mana whenua over the Kermadec region, as statutorily recognised in their deeds of settlement), and another would be appointed on the nomination of the Minister responsible for Māori Development.

The Department of Conservation would administer and manage the sanctuary.

Suggested amendments to the bill

This commentary covers the main amendments that we recommend to the bill. It does not cover technical amendments.

Name of the sanctuary

We recommend changing the name of the sanctuary to the "Kermadec/Rangitāhua Ocean Sanctuary", to recognise the indigenous name for Raoul Island (Rangitāhua) and the surrounding area. Our suggested name change would broadly align with the

dual naming convention used in the New Zealand Geographic Board's 2012 publication, *Standard for Crown Protected Area Names*.

Consequently, we recommend amending the title of the bill in clause 1, and all references to the name of the sanctuary within the bill.

Definitions

We recommend several amendments to the Interpretation clause (clause 4).

We recommend inserting a definition of “environment”, to clarify that the term would have the same meaning as in the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act.

We recommend inserting a definition of “impact assessment”, to clarify the information that the EPA must obtain when considering an application for authorisation to undertake an activity for the purposes of marine scientific research.

We recommend amending paragraph (c) in the definition of “marine scientific research”. This amendment would clarify that any research undertaken within the sanctuary for mining purposes outside the sanctuary must only be for the purpose of obtaining or complying with relevant consents and authorisations required under other legislation.

We recommend a minor amendment to the definition of “mining activity” so that paragraph (b) mirrors paragraph (c) by referencing subsoil.

To be clear, and to align with section 2(1) of the Maritime Transport Act 1994, we recommend inserting a definition of “warship”.

Status of examples

We recommend inserting new clause 7A, which is a standard provision noting that the examples within this legislation are intended to be illustrative only, and do not cover all possible scenarios.

Activities prohibited in the sanctuary

We recommend amending clause 9(2)(c) to also prohibit the disturbance or removal of living natural material from the seabed or subsoil.

We recommend inserting new clause 9(2)(f) to make it clear that, in addition to other vibrations, all forms of seismic surveying would be considered a prohibited activity.

Activities not prohibited in the sanctuary

We recommend amending clause 10(1)(b) to specify that an activity undertaken for the purposes of marine scientific research would not be prohibited if it is a marine scientific research activity undertaken in accordance with any terms and conditions imposed by the EPA as a result of granting, changing, or reviewing an authorisation.

We recommend inserting new clause 10(2)(aa) to make it clear that activities undertaken under the Biosecurity Act to eradicate unwanted organisms from the sanctuary

would not be in breach of clause 9. This amendment would require a consequential amendment to clause 29, section 7B of the Biosecurity Act.

We recommend deleting clause 10(2)(a)(iii) as this would be covered by proposed new clause 9(2)(f).

Relationship with other legal requirements

We recommend amending clause 12(3) so that a person authorised to do marine scientific research would not also have to apply for a special fishing permit under the Fisheries Act. We consider that this amendment would remove an unnecessary administrative burden which provides no additional oversight. Consequentially, we recommend amending the example in clause 12 to reflect this change.

Authorisations granted by the EPA

We recommend inserting new clause 12A to clarify the purpose of the provisions relating to authorisations for marine scientific research, and therefore what the EPA must consider when granting, changing, reviewing, or revoking marine scientific research authorisations.

Term of authorisation granted by the EPA

It was suggested that the term of authorisations be extended because it can take time to organise and complete a marine research expedition. We consider an extension to be appropriate and therefore recommend amending clause 20(2) to extend the maximum term of authorisation from 2 to 5 years.

Determinations on applications for authorisation

We recommend amending clause 19 to require the EPA to decline an application if it considers that the activity to be undertaken is not for the purposes of marine scientific research, or would be likely to have significant adverse effects on the environment.

In considering whether an activity could have significant adverse effects on the environment, the EPA would need to have regard to the matters listed under new clause 19(4).

We recommend inserting clause 19(3) to require the EPA to obtain an impact assessment before making a determination, unless it has decided it is reasonably capable of making the determination without an assessment.

As a consequence of these amendments to clause 19, we recommend deleting clause 15(c)(ii), as it would be redundant.

We recommend inserting clause 19A to allow the EPA to impose terms and conditions on marine scientific research authorisations that it considers are appropriate. We recommend some consequential amendments to clauses 20 and 22 as a result of this change.

We recommend inserting clause 22A. This new clause would allow the EPA, at any time during the authorisation period, to review the conditions it had imposed on the

authorisation. The EPA could only do so for one of the reasons listed in clause 22A(2)—for example, if the authorisation had been based on incorrect or outdated information, or had caused unanticipated effects. Under new clause 22A(3), the EPA would first need to give the holder of the authorisation written notice, and a reasonable opportunity to respond. Clause 22A(4) provides that the review would be a separate process, so the EPA would not have to duplicate the requirements involved in the original authorisation.

We recommend inserting clause 22B to allow the EPA to revoke an authorisation if it considers that it creates significant negative environmental effects that cannot be mitigated. We note that the EPA would need to give written notice, and must have satisfied the conditions listed under new clause 22B(2).

We recommend inserting new clause 22D to provide for an appeals process to the High Court for marine scientific research decisions. Appeals could only be made on points of law.

Requiring the EPA to keep records

We recommend inserting new clause 22C to require the EPA to keep records about its marine scientific research functions under this legislation, and to make these records publicly available once all decisions about an application had been made.

Members of the Kermadec/Rangitāhua Conservation Board

We recommend amending clause 24(2) to specify that the Minister responsible for Māori Development must nominate a person to represent the interests of “iwi Māori” who have cultural, historical, spiritual, and traditional associations with the Kermadec area.

This term is broader than “iwi”, which is used in the bill as introduced. Our amendment would allow for a more representative nomination. We note that the term “iwi Māori” is used in the preamble to the Te Ture Whenua Māori Act 1993, and the reference to “cultural, historical, spiritual, and traditional associations” aligns with similar wording in relevant Treaty settlement legislation.

Consultation before recommending regulations

We recommend inserting new clause 27(2A) to require the Ministers to consult with persons and organisations considered appropriate before recommending that regulations be made for any of the purposes set out under clause 27.

Review of the operation of this legislation

We recommend inserting new clause 27A to require a review to be conducted 25 years after the enactment of this legislation. The review would consider the operation and effectiveness of this legislation with regard to:

- the extent to which its purpose had been achieved
- any other specific matters required by the terms of reference.

The review panel would need to work under terms of reference set by the responsible Ministers. The terms of reference would need to:

- provide flexibility so that the review could be refined
- allow for iwi participation in setting the scope of the review
- allow for interested persons and the public to be given a reasonable opportunity to make submissions on the matters being reviewed. The review panel would need to consider any submissions received before preparing a report on the review
- set out the process for the review.

The panel's report on the review would be provided to the Minister responsible for the administration of this legislation and the Minister for the Environment. The report would then need to be presented to the House of Representatives.

We recommend inserting new clause 27B, which sets out how the review panel would be jointly appointed by the Minister of Conservation and the Minister for the Environment. The panel's membership would include:

- 1 member appointed on the nomination of the Kermadec/Rangitāhua Conservation Board
- 1 member appointed on the nomination of Te Ohu Kaimoana Trustee Limited (or any successor body)
- 1 member appointed by the Ministers after consultation with representatives of te iwi Māori who have cultural, historical, spiritual, and traditional associations with the Kermadec/Rangitāhua area
- 3 members appointed by the Ministers.

Amendments to other enactments

Crown Minerals Act 1991

We recommend inserting clauses 33A and 33B, which would insert new section 28B in the Crown Minerals Act. These new clauses would ensure that permits are not granted within the sanctuary under the Crown Minerals Act.

Fisheries Act 1996

We recommend inserting new clauses 46A–46E and 48A, and amending clause 47. These amendments to sections 13, 14, 14B, 20, 75, and 264 of the Fisheries Act, and the insertion of new section 113AC of that Act, concern the total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10.

Our amendments would ensure that allowable catches and deemed values for stocks are set at zero, and that holders of quota shares for Kermadec Fishery Management Area 10 are no longer required to pay cost recovery levies on that quota. Amended clause 47 clarifies that any fishing activity within the sanctuary would be an offence.

Fisheries Notice 2015

We recommend amending Part 2 of Schedule 3 to include an amendment to the Fisheries (Total Allowable Catch, Total Allowable Commercial Catch, and Deemed Value Rates) Notice 2015. This amendment and its subsequent consequential amendments would set the total allowable catch, total allowable commercial catch, and deemed value rates for fish stocks in the sanctuary at zero.

Effect of no compensation provision on court proceedings

The majority of us recommend inserting new clause 1A in Schedule 1, to clarify how the no compensation provision in clause 1 of Schedule 1 would apply to court proceedings. This new clause specifies that this legislation would not prevent the completion, or initiation, of court proceedings.

Any proceedings determined (at first instance or on appeal) on or after 1 November 2016 (the commencement date for most of this legislation) would need to be determined subject to the provisions in this legislation. This provision would apply despite any amendments to the proceedings.

Fishing rights under no compensation provision

Schedule 1 of the bill provides that no compensation would be payable by the Crown for any loss or damage, or any adverse effect on a right or interest (including to the value of quota or a right to fish) arising from this legislation.

Submitters expressed their concern to us about a potential loss of fishing rights granted under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. The Crown and Te Ohu Kaimoana hold quota for 66 species in Quota Management Area 10. This quota can only be caught within the boundaries of Fisheries Management Area 10 (which corresponds to the area of the proposed sanctuary).

We were informed that none of the 66 Quota Management Area 10 stocks are being caught in Fisheries Management Area 10 as they are currently not considered economically viable. Fishing these species is difficult for several reasons including the remote location of the area and lack of infrastructure. We note that the future economic value of fish stock in this area is difficult to assess.

We were informed that the 66 species are not unique to Fisheries Management Area 10 and can be caught elsewhere in New Zealand waters as long as the fisher holds a fishing permit and an annual catch entitlement. However, the specific quota set for Quota Management Area 10 can only be utilised within that area.

We also note that quota for highly migratory species is currently utilised at low levels in Fisheries Management Area 10. However, this type of quota can be caught elsewhere in New Zealand's Exclusive Economic Zone, primarily in Fisheries Management Area 1.

We were advised that the no compensation provisions, the prohibiting of fishing in Fisheries Management Area 10, and reducing the total allowable catch to zero, would not extinguish any individual fishing quota in Quota Management Area 10. However,

some of us sympathise with submitters who have expressed concern about a loss of fishing rights, as the sanctuary would, in effect, prevent the utilisation of quota within the area of the sanctuary.

Some of us also consider that earlier and improved engagement with mana whenua and organisations such as Te Ohu Kaimoana would have been beneficial to this legislative process.

Right to compensation

We note that the Attorney-General reviewed this bill for consistency with the Bill of Rights Act 1990. While the Attorney-General's report noted that the prohibition on fishing would "impair the right of individuals to take fish in the sanctuary as part of a cultural practice", ultimately the Attorney-General concluded that the limitation is justifiable under section 5 of the Bill of Rights Act.

The UNCLOS does not consider the topic of compensation around loss of domestic fishing rights. However, we note that the Government has the right to protect the marine environment within New Zealand's exclusive economic zone without the need for financial compensation. The approach proposed in the bill is consistent with previous Government decisions not to compensate for fishing rights when establishing marine reserves under the Marine Reserves Act 1971.

Therefore, we do not recommend changes to Schedule 1 to provide for compensation as a result of the inability to utilise quota or any other rights or interests. However, we emphasise that this legislation would not extinguish customary rights or interests in the Kermadec area, and it would not prevent or affect court proceedings.

New Zealand Labour Party minority view

The New Zealand Labour Party has campaigned for the creation of the marine sanctuary in the Kermadecs for over four years. We support its creation and thank its other proponents for their advocacy.

However, the select committee has not properly considered the effect of this legislation on the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Does the Government owe a duty not to undermine the value and obligations under Treaty settlements? When do Treaty settlement assets become subject to the laws which apply generally? Is it right for this legislation to say no compensation is payable?

We believe it is wrong that the bill undermines the rights arising from the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, which were meant to be "full and final", and in particular those fishing rights relating to Fisheries Management Area 10.

We received a submission from Te Ohu Kaimoana who stated that, prior to the public announcement of the Kermadec Ocean Sanctuary, consultation did not occur with them. It appears that the Government did not adequately consider working with Te Ohu Kaimoana (as Treaty partners) to find a workable solution that promoted the sanctuary while protecting Treaty rights.

Legislation enabling a marine sanctuary within the 12-mile territorial limit predates the quota management system, and it is accepted that marine sanctuaries within the territorial limit do not require compensation of quota holders.

The Crown asserts that compensation is not payable in respect of marine reserves in the exclusive economic zone. It asserts that the principle which applies within the territorial waters applies also in the exclusive economic zone. The Crown and some submitters further maintain that New Zealand's exclusive fishing rights in the exclusive economic zone arise from the United Nations Convention on the Law of the Sea, which includes obligations to preserve the exclusive economic zone. Accordingly, they say that quota management system quota rights were always subject to the Crown's ability to create marine reserves in the exclusive economic zone as well.

Quota holders do not accept the Crown's assertion and believe compensation is legally due. It is wrong that the bill predetermines the complaint that compensation is due for losses caused by the sanctuary undermining the rights arising from that settlement.

The effect of setting the total of the allowable catch in Fisheries Management Area 10 at zero is to prevent the *activity* of fishing and render some related quota management system quota valueless. The Crown asserts that this approach does not extinguish rights conferred by the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Pretending that quota is not extinguished while setting the allowable catch at zero is a device which obscures the reality, which is that quota is effectively being taken away. The change is being made without the consent of the Treaty partner.

If the Crown is correct that quota management system rights in the exclusive economic zone under the 1992 settlement were always subject to the right of the Crown to create reserves without compensation, then it does not need to legislate away the ability of quota holders to claim compensation through the courts.

Although the amount of compensation may not be large in the Kermadecs, because the loss is small, the principle is important.

Including a provision for Te Ohu Kaimoana membership on the Kermadec Conservation Board should not prejudice their ability to test this matter before the courts.

We consider that the impact on customary and commercial rights within the sanctuary cannot be considered fully in the scheduled review. We recommend that the review period be amended to occur 10 years after the bill's commencement. The review should include in its terms of reference the effect of this bill on the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Given other impending changes in the marine space, and the potential impact on fisheries activity, a shorter review period would provide a valid timeframe to assess the issues.

With this serious reservation, we support the bill. We will be moving Supplementary Order Papers to remove the clause preventing compensation being claimed, amend the review period, and include a specified provision in the terms of reference to enable the impact of the bill on the 1992 Fisheries Settlement to be assessed.

Green Party of Aotearoa New Zealand minority view

The Green Party supports the Kermadec Ocean Sanctuary Bill. It has long supported and campaigned for more extensive marine protection in the Kermadec region, including through a private member's bill lodged in the ballot by Green MP, Gareth Hughes. The geological and biodiversity values of the Kermadec region are extraordinary and internationally significant.

The lack of consultation with iwi by the Crown prior to the Government's announcement on the international stage of the proposed creation of a Kermadec Ocean Sanctuary has been unsatisfactory. It fell well short of expectations under Te Tiriti o Wai-tangi. This has been reflected in submissions opposing the bill.

The Green Party recognises that non-governmental organisations such as the Pew Foundation, WWF New Zealand, Forest and Bird, and others have engaged in extensive public discussion, including two science symposia, art exhibitions, and discussions with mana whenua about a proposed Kermadec Ocean Sanctuary over the last seven years. This is not a substitute for the Crown consulting with mana whenua and other iwi.

For the future, the Green Party hopes that the Crown will actively involve and consult iwi in the development of new marine protection legislation. It seeks a clear process for establishing marine protected areas in the EEZ which ensures Treaty rights are respected and implemented, and that the Crown consults properly. Having such a process may have avoided some of the issues around the bill's introduction. The Green Party is disappointed that current Government proposals to change marine protection law rule out establishing such a process for the EEZ.

The select committee has made significant changes to the bill in response to public submissions including submissions by the Trustees of Te Runanga Nui o Te Aupouri and other iwi authorities and Te Ohu Kaimoana. These changes include renaming the sanctuary as the Kermadec/Rangitāhua Ocean Sanctuary; and providing for a review of the Act's operation and effectiveness within 25 years of it coming into effect and the sanctuary being established (by 1 November 2041).

The 6-member review panel must include a nominee of Te Ohu Kaimoana Trustee Ltd, a member appointed after consultation with iwi Māori who have cultural, historical, spiritual, and traditional associations with the Kermadec/Rangitāhua region, and a nominee of the Kermadec/Rangitāhua Conservation Board. The terms of reference for the review panel must be jointly agreed by the Minister, Te Ohu Kaimoana, iwi Māori associated with the Kermadecs, and the Kermadec/Rangitāhua Conservation Board.

The submission of the Trustees of Te Runanga Nui o Te Aupouri Trust sought greater recognition of the views of Kermadec iwi authorities on applications for marine scientific research. The bill has been amended to require the Environmental Protection Authority (EPA) to have regard to the views of Kermadec/Rangitāhua iwi authorities when it considers these applications, as well as enabling the EPA to impose conditions or decline applications.

The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 allocated a share of existing and new fishing quota and a 50 percent stake in Sealord to iwi as settlement of Treaty claims in relation to commercial fisheries.

Fisheries Management Area 10 (FMA 10) has similar boundaries to the Kermadec/Rangitāhua Ocean Sanctuary. The bill does not allow fishing within the sanctuary but it does not extinguish quota rights in FMA 10 held by Te Ohu Kaimoana Ltd and others. Nor does it disestablish FMA 10. The review of the Act's operation could potentially recommend that the law be amended to allow fishing within the sanctuary.

Holding quota gives fishers a right to go fishing, subject to government management controls. It is not a right to fish everywhere all of the time.

The Green Party supports longstanding government policy that policy measures taken to protect the marine environment and promote sustainable management should not be subject to (or prevented by) financial considerations. The payment of compensation would be a significant expansion of the property rights attached to the allocation of fishing quota.

The Fisheries Act 1996 (section 308), for example, expressly provides that the Crown is not liable to compensate persons adversely affected by decisions made for sustainability purposes under that Act.

Since 1992, thirty eight marine reserves have been established under either the Marine Reserves Act 1971 or special legislation. No compensation has been paid by the Crown to fishers for reducing the area in which quota rights can be exercised by creating these reserves.

The bill makes this policy explicit by providing that no compensation is payable on any limitation on the value of quota or a right to fish arising from the bill.

Neither of the Sanctuary-related proceedings by Te Ohu Kaimoana and the New Zealand Fishing Industry Association currently before the High Court seeks compensation. The bill as reported back makes it clear that existing and future court action may proceed, subject to the no compensation provision.

It was not clear from submissions how quota allocated to iwi under the 1992 Fisheries Settlement differ from commercial quota, such that different policy considerations should apply in relation to sustainability measures such as the Kermadec/Rangitāhua Ocean Sanctuary.

Concerns raised by Te Ohu Kaimoana and some iwi authorities that the bill breaches Treaty rights and interferes with quota rights conferred by the Treaty of Waitangi (Fisheries Claims) Settlement Act are complex. Such concerns are most appropriately resolved by the courts or by negotiation between iwi and the Crown, rather than select committee.

Appendix

Committee process

The Kermadec Ocean Sanctuary Bill was referred to the committee on 15 March 2016. The closing date for submissions was 28 April 2016.

We received and considered 82 unique submissions from interested groups and individuals, and a form submission representing 1,084 submitters. We heard oral evidence from 18 submitters.

We received advice from the Ministry for the Environment, the Department of Conservation, the Ministry for Primary Industries, the Ministry of Business, Innovation and Employment, and the Ministry of Foreign Affairs and Trade, as well as the Parliamentary Counsel Office.

Committee membership

Scott Simpson (Chairperson)

Matt Doocey

Sarah Dowie

Paul Foster-Bell

Joanne Hayes

Tutehounuku Korako

Ron Mark

Hon David Parker

Eugenie Sage

James Shaw

Meka Whaitiri

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Dr Nick Smith

Kermadec Ocean Sanctuary Bill

Government Bill

Contents

	Page
1 Title	4
2 Commencement	4
Part 1	
Preliminary provisions	
3 Purpose <u>of this Act</u>	5
4 Interpretation	5
5 Transitional, savings, and related provisions	8
6 Act binds the Crown	8
7 Application to national security activities or ships and aircraft of New Zealand Defence Force and foreign States	8
<u>7A</u> <u>Status of examples</u>	<u>9</u>
Part 2	
Kermadec/<u>Rangitāhua</u> Ocean Sanctuary	
<i>Kermadec/<u>Rangitāhua</u> Ocean Sanctuary established</i>	
8 Kermadec/ <u>Rangitāhua</u> Ocean Sanctuary established	9
9 Activities prohibited in Kermadec/ <u>Rangitāhua</u> Ocean Sanctuary	9
10 Activities to which prohibition does not apply	9
11 Effect of prohibitions on permissions under EEZCS Act, Fisheries Act 1996, and other enactments	11
12 Relationship with other legal requirements	11
<i>Authorisations for marine scientific research</i>	
<u>12A</u> <u>Purpose of provisions on authorisations for marine scientific research</u>	<u>12</u>

Kermadec Ocean Sanctuary Bill

13	Research applicant may apply for authorisation for marine scientific research	12
14	Pre-application engagement with Kermadec/ <u>Rangitāhua</u> iwi authorities	12
15	Application for authorisation for marine scientific research	12
16	EPA must refer incomplete application back to research applicant	13
17	EPA must seek further advice on application to inform consideration	13
18	Other requirements for EPA's process	13
19	Application may be declined on limited grounds only <u>How EPA determines application for authorisation</u>	14
<u>19A</u>	<u>EPA may impose terms and conditions on authorisation</u>	<u>15</u>
20	Matters to be specified in authorisation	15
21	Authorisation is transferable	16
22	Change to scope of <u>Application for change to authorisation</u>	16
<u>22A</u>	<u>EPA may review terms and conditions</u>	<u>16</u>
<u>22B</u>	<u>EPA may revoke authorisation whose use creates significant adverse effects that cannot be mitigated</u>	<u>17</u>
<u>22C</u>	<u>EPA to keep records</u>	<u>17</u>
<u>22D</u>	<u>Appeal to High Court on question of law</u>	<u>17</u>
	<i>Kermadec/<u>Rangitāhua</u> Conservation Board</i>	
23	Establishment of Kermadec/ <u>Rangitāhua</u> Conservation Board	18
24	Appointment of members of Kermadec/ <u>Rangitāhua</u> Conservation Board	18
25	Chairperson of Kermadec/ <u>Rangitāhua</u> Conservation Board	19
26	Replacement of members	20
	<i>Regulations</i>	
27	Regulations	20
	<u><i>Review of operation of Act</i></u>	
<u>27A</u>	<u>Review of operation of Act</u>	<u>22</u>
<u>27B</u>	<u>Appointment of review panel and terms of reference</u>	<u>22</u>
	Part 3	
	Amendments to other enactments	
	<i>Amendments to Biosecurity Act 1993</i>	
28	Amendments to Biosecurity Act 1993	23
29	Section 7B amended (Relationship with Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012)	23
	<i>Amendments to Conservation Act 1987</i>	
30	Amendments to Conservation Act 1987	23
31	Section 17C amended (General policy under more than 1 Act)	23
32	Section 17D amended (Conservation management strategies)	24

Kermadec Ocean Sanctuary Bill

33	Schedule 1 amended	24
	<i><u>Amendment to Crown Minerals Act 1991</u></i>	
<u>33A</u>	<u>Amendment to Crown Minerals Act 1991</u>	<u>24</u>
<u>33B</u>	<u>New section 28B inserted (No permits may be granted for land in Kermadec/Rangitāhua Ocean Sanctuary)</u>	<u>24</u>
<u>28B</u>	<u>No permits may be granted for land in Kermadec/Rangitāhua Ocean Sanctuary</u>	<u>24</u>
	<i>Amendments to EEZCS Act</i>	
34	Amendments to EEZCS Act	24
35	Section 4 amended (Interpretation)	24
36	Section 7 amended (Meaning of marine management regime)	24
37	Section 20H amended (Emergency dumping)	25
38	New subpart 2A of Part 2 inserted	25
	Subpart 2A—Additional restrictions on activities in Kermadec/Rangitāhua Ocean Sanctuary	
20K	Additional restrictions on activities in Kermadec/Rangitāhua Ocean Sanctuary	25
39	New section 37AA inserted (Kermadec/Rangitāhua prohibited activities)	25
37AA	Kermadec/Rangitāhua prohibited activities	25
40	Section 132 amended (Offences in relation to activities regulated under section 20)	25
41	New sections 134EA and 134EB and cross-heading inserted	25
	<i>Offences and defences in relation to Kermadec/Rangitāhua prohibited activities</i>	
134EA	Offences in relation to Kermadec/Rangitāhua prohibited activities	26
134EB	Strict liability and defences in relation to Kermadec/Rangitāhua prohibited activities	26
42	Section 134I amended (Additional penalties for discharge and dumping offences)	27
43	Section 134M amended (Application of fines for discharge and dumping offences)	27
	<i>Amendment to Environmental Protection Authority Act 2011</i>	
44	Amendment to Environmental Protection Authority Act 2011	27
45	Section 5 amended (Interpretation)	27
	<i>Amendments to Fisheries Act 1996</i>	
46	Amendments to Fisheries Act 1996	27
<u>46A</u>	<u>Section 13 amended (Total allowable catch)</u>	<u>27</u>
<u>46B</u>	<u>Section 14 amended (Alternative total allowable catch for stock specified in Schedule 3)</u>	<u>27</u>

<u>46C</u>	<u>Section 14B amended (Alternative total allowable catch for certain stocks)</u>	<u>28</u>
<u>46D</u>	<u>Section 20 amended (Setting and variation of total allowable commercial catch)</u>	<u>28</u>
<u>46E</u>	<u>Section 75 amended (Minister to set deemed value rates)</u>	<u>28</u>
47	New sections <u>113AB</u> and <u>113AC</u> and cross-heading inserted	28
	<i>Specific prohibition on fishing, and total allowable catches and levies, in Kermadec Fishery Management Area 10</i>	
113AB	No fishing permitted in Kermadec Fishery Management Area 10	28
<u>113AC</u>	<u>Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10</u>	<u>29</u>
48	Section 252 amended (Penalties)	29
<u>48A</u>	<u>Section 264 amended (Levies)</u>	<u>29</u>
	<i>Consequential amendments</i>	
49	Consequential amendments	29
	Schedule 1	30
	Transitional, savings, and related provisions	
	Schedule 2	32
	Kermadec/Rangitāhua Ocean Sanctuary	
	Schedule 3	35
	Consequential amendments	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**.

2 Commencement

- (1) This Act comes into force on **1 November 2016** (except as provided in **sub-sections (2) and (3)**). 5
- (2) **Sections 23 to 26** come into force on a date appointed by the Governor-General by Order in Council.
- (3) Any provision that has not earlier been brought into force comes into force on **1 November 2018**. 10

Part 1

Preliminary provisions

3 **Purpose of this Act**

The purpose of this Act is to preserve the Kermadec/Rangitāhua Ocean Sanctuary in its natural state.

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4 **Interpretation**

In this Act, unless the context otherwise requires,—

Director-General means the Director-General of Conservation within the meaning of section 2(1) of the Conservation Act 1987

disturb includes excavate, drill, tunnel, or dredge

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dumping—

(a) means—

(i) any deliberate disposal into the sea of waste or other matter from ships, aircraft, and structures at sea; and

(ii) any deliberate disposal into the sea of ships, aircraft, and structures at sea; and

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(iii) any storage of waste or other matter in the seabed and the subsoil of the seabed from ships, aircraft, and structures at sea; and

(iv) any abandonment or toppling at the site of structures at sea for the sole purpose of deliberate disposal; but

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(b) does not include—

(i) the disposal into the sea of waste or other matter incidental to, or derived from, the normal operations of ships, aircraft, and structures at sea and their equipment, other than waste or other matter transported by or to ships, aircraft, and structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such waste or other matter on such ships, aircraft, and structures; or

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(ii) placement of matter for a purpose other than the mere disposal of them; but only if the placement is not contrary to the aims of the 1996 Protocol to the London Convention; or

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(iii) abandonment in the sea of matter (for example, cables, pipelines, and marine research devices) placed for a purpose other than the mere disposal of it

EEZCS Act means the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012

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effect has the same meaning as in section 6 of the EEZCS Act

environment has the same meaning as in section 4(1) of the EEZCS Act

EPA means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

exclusive economic zone means the exclusive economic zone of New Zealand as defined in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

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

harmful substance has the same meaning as in section 4(1) of the EEZCS Act

impact assessment, for an application for an authorisation granted by the EPA under this Act to undertake an activity for the purposes of marine scientific research, means an assessment that the EPA obtains in any way (for example, as additional information given to the EPA under **section 16**, or as independent advice sought by the EPA under **section 17(b)**), and that—

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(a) describes the activity for which the authorisation is sought; and

(b) describes the current state of the area where it is proposed that the activity will be undertaken and the environment surrounding the area; and

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(c) identifies the effects of the activity on the environment (including any cumulative effects and any effects that may occur in New Zealand or in the sea above or beyond the continental shelf beyond the outer limits of the exclusive economic zone); and

(d) specifies any possible alternative locations for, or methods for undertaking, the activity that may avoid, mitigate, or remedy any adverse effects; and

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(e) specifies the measures that the research applicant intends to take to avoid, mitigate, or remedy the adverse effects identified

Kermadec/Rangitāhua area means the Kermadec/Rangitāhua Islands, the Kermadec/Rangitāhua marine reserve, and the Kermadec/Rangitāhua Ocean Sanctuary

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Kermadec/Rangitāhua Conservation Board means the Conservation Board established by **section 23**

Kermadec/Rangitāhua conservation management strategy means the conservation management strategy approved under section 17F of the Conservation Act 1987 for the Kermadec/Rangitāhua area or (until a strategy is approved for that area) the strategy that applies to the Kermadec/Rangitāhua area under **clause 5 of Schedule 1**

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Kermadec/Rangitāhua iwi authority means each of the following:

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(a) the trustees of Te Manawa;

(b) the trustees of Te Rūnanga Nui

Kermadec/Rangitāhua marine reserve means the areas that together form the marine reserve ~~adjacent to~~ (constituted as the Kermadec Islands Marine Reserve) surrounded by the Kermadec/Rangitāhua Ocean Sanctuary

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Kermadec/Rangitāhua Ocean Sanctuary means the area established as the Kermadec/Rangitāhua Ocean Sanctuary under **section 8**

Kermadec/Rangitāhua prohibited activity means an activity that is prohibited in the Kermadec/Rangitāhua Ocean Sanctuary by **section 9**

London Convention means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) 5

marine reserve has the same meaning as in section 2 of the Marine Reserves Act 1971

marine scientific research—

- (a) means research (whether fundamental or applied) carried out for the purpose of increasing knowledge about the environment, ~~marine resources, or living marine organisms~~; and 10
- (b) includes any related scientific activity; but
- (c) excludes any research carried out in relation to a mining activity (unless that research relates to a mining activity undertaken outside the Kermadec/Rangitāhua Ocean Sanctuary, and is research carried out only or mainly for the purpose of obtaining or complying with authorisations, consents, or permissions under an enactment other than this Act) 15

mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991 20

mining activity means any of the following activities carried out for, or in connection with, the identification of areas of the seabed likely to contain mineral deposits, the identification of mineral deposits, or the taking or extraction of minerals from the sea or seabed and associated processing of those minerals:

- (a) the construction, mooring or anchoring long-term, placement, alteration, extension, removal, or demolition of a structure, part of a structure, or a ship used in connection with a structure: 25
- (b) the depositing of any thing or organism in, on, or under the seabed or subsoil:
- (c) the destruction, damaging, or disturbance of the seabed or subsoil: 30
- (d) the discharging of a harmful substance

Minister means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

prescribed means prescribed by regulations or, in relation to **sections 14 to 22B**, means prescribed by regulations or approved by the chief executive of the EPA 35

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

regulations means regulations made under this Act

- seismic survey** means a survey of the geology of the seabed, or the structures beneath the seabed, carried out by projecting pressure waves into the layers beneath the seabed and detecting and measuring the reflected signals
- ship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994 5
- structure** has the same meaning as in section 4(1) of the EEZCS Act
- trustees of Te Manawa** has the same meaning as in section 12 of the Ngāti Kuri Claims Settlement Act 2015
- trustees of Te Rūnanga Nui** has the same meaning as in section 12 of the Te Aupouri Claims Settlement Act 2015 10
- warship** has the same meaning as in section 2(1) of the Maritime Transport Act 1994.
- 5 Transitional, savings, and related provisions**
- The transitional, savings, and related provisions set out in **Schedule 1** have effect according to their terms. 15
- 6 Act binds the Crown**
- This Act binds the Crown (except as provided by **section 7**).
- 7 Application to national security activities or ships and aircraft of New Zealand Defence Force and foreign States**
- (1) This Act does not apply to any work or activity of the Crown that the Minister of Defence certifies is necessary for reasons of national security. 20
- (2) This Act does not apply to any of the following:
- (a) warships of the New Zealand Defence Force:
 - (b) warships of any other State:
 - (c) aircraft of the New Zealand Defence Force: 25
 - (d) aircraft of the defence forces of any other State:
 - (e) any ship owned or operated by any State other than New Zealand, if the ship is being used by the State for wholly governmental purposes:
 - (f) the master and crew of any warship, aircraft, or ship referred to in **paragraphs (a) to (e)**: 30
 - (g) defence areas as defined in section 2 of the Defence Act 1990.
- (3) In this section, a ship that is being used for commercial purposes, or both commercial and governmental purposes, is not being used for wholly governmental purposes.

7A Status of examples

- (1) An example used in this Act is only illustrative of the provisions to which it relates. It does not limit those provisions.
- (2) If an example and a provision to which it relates are inconsistent, the provision prevails.

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Part 2**Kermadec/Rangitāhua Ocean Sanctuary***Kermadec/Rangitāhua Ocean Sanctuary established***8 Kermadec/Rangitāhua Ocean Sanctuary established**

- (1) The area described in **Schedule 2** is established as the Kermadec/Rangitāhua Ocean Sanctuary. 10
- (2) The area is described in **Schedule 2** as follows:
- (a) **Part 1** of **Schedule 2** contains a map that shows the general location of the Kermadec/Rangitāhua Ocean Sanctuary:
- (b) **Part 2** of **Schedule 2** describes the geographical boundaries of the Kermadec/Rangitāhua Ocean Sanctuary. 15
- (3) If there is any inconsistency between **Part 1** and **Part 2 of Schedule 2**, the descriptions in **Part 2** prevail.

9 Activities prohibited in Kermadec/Rangitāhua Ocean Sanctuary

- (1) No person may undertake any of the activities described in **subsection (2)** in the Kermadec/Rangitāhua Ocean Sanctuary (*but see section 10*). 20
- (2) The prohibited activities are as follows:
- (a) fishing:
- (b) a mining activity:
- (c) the disturbance of, or the removal of living or non-living natural material from, the seabed or subsoil: 25
- (d) the dumping of waste or other matter (including from ships, aircraft, or structures):
- (e) the causing of vibrations (other than vibrations caused by the propulsion of a ship) in a manner that is likely to have an adverse effect on marine life: 30
- (f) seismic surveying.

10 Activities to which prohibition does not apply

- (1) The undertaking of an activity for the purposes of marine scientific research is not prohibited by **section 9** if the activity is— 35

- (a) covered by an authorisation granted by the EPA under this Act; and
- (b) undertaken in accordance with the terms and conditions set out in regulations (if any) or imposed by the EPA on the authorisation in granting, changing, or reviewing the authorisation.
- (2) In addition, the prohibition in **section 9** does not apply to the following activities: 5
- Actions to eradicate or manage organism under Biosecurity Act 1993*
- (aa) any action taken under the Biosecurity Act 1993 in an attempt to eradicate or manage an organism:
- Activities regulated under EEZCS Act* 10
- (a) any of the following activities permitted or authorised under the EEZCS Act:
- (i) the construction, placement, alteration, extension, removal, or demolition of a submarine pipeline on, from, or under the seabed:
- (ii) the placement, alteration, extension, or removal of a submarine cable on or from the seabed: 15
- ~~(iii) seismic surveying for the purposes of marine scientific research:~~
- (iv) dumping under an emergency dumping consent issued under section 20H of that Act:
- (v) any other activity permitted or authorised under that Act in connection with another activity covered by any of **subparagraphs (i) to (iv):** 20
- (b) ~~any action taken under an exemption from Part 2 of the EEZCS Act granted under section 7B of the Biosecurity Act 1993 or continued under regulations made under the Biosecurity Act 1993:~~ 25
- Activities regulated under Maritime Transport Act 1994*
- (c) any of the following activities done under the Maritime Transport Act 1994:
- (i) anything done by or on behalf of a person under any of sections 248, 249, 255, 305, 310, and 311 of that Act: 30
- (ii) anything done under any instructions permitted to be issued or directions permitted to be given under any of those sections.
- (3) Any term or expression used in **subsection (2)**, but not defined in this Act, has the meaning given to it in the Biosecurity Act 1993 (in the case of **subsection (2)(aa)**) or the EEZCS Act or regulations made under that Act (in the case of **subsection (2)(a) and (b)**) or the Maritime Transport Act 1994 (in the case of **subsection (2)(c)**). 35

11 Effect of prohibitions on permissions under EEZCS Act, Fisheries Act 1996, and other enactments

- (1) If an activity is prohibited by **section 9** (read together with **section 10**),—
- (a) the activity (if listed in **section 9(2)(a)**) is not lawful fishing under the Fisheries Act 1996 and undertaking that activity is an offence under that Act (*see* **section 113AB** of that Act); and 5
 - (b) the activity (if listed in **section 9(2)(b) to (e)(f)**) is not a permitted activity for the purposes of the EEZCS Act, no consent may be granted for that activity under that Act, and undertaking that activity is an offence under that Act (*see* **sections 20K and 134EA** of that Act); and 10
 - (c) no permission or authorisation to undertake the activity under any other enactment has any effect.
- (2) *See also* **clause 1 of Schedule 1** (as a result of which no compensation is payable for loss or damage arising from the enactment or operation of this Act, including the prohibition in **section 9**). 15

12 Relationship with other legal requirements

- (1) Compliance with this Act does not remove the need to comply with all other applicable Acts, regulations, and rules of law.

Example

A person carrying out marine scientific research that involves taking ~~fish~~ a marine mammal from the Kermadec/Rangitāhua Ocean Sanctuary will need an authorisation under this Act (so that ~~the activity—this fishing, prohibited by section 9, will be permitted under section 10(1)—and a permit under the Fisheries Act 1996.~~ However, the research will also need a permit under, and must otherwise comply with, the Marine Mammals Protection Act 1978. 20 25

- (2) Compliance with any other Act, regulations, or rule of law does not remove the need to comply with this Act.
- (3) However, an activity undertaken for the purposes of marine scientific research that is covered by an authorisation under this Act need not also comply with ~~the terms and conditions specified for the activity in regulations made under the EEZCS Act.~~ either or both of the following: 30
- (a) the terms and conditions specified for the activity in regulations made under the EEZCS Act;
 - (b) the requirement, if the activity is or includes fishing, to have, or to be exempted from having, a current fishing permit under the Fisheries Act 1996 (*see* section 89 of that Act). 35

*Authorisations for marine scientific research***12A Purpose of provisions on authorisations for marine scientific research**

Sections 13 to 22B provide for the EPA to grant, change, review, and revoke authorisations for marine scientific research to ensure that the preservation of the Kermadec/Rangitāhua Ocean Sanctuary in its natural state is for purposes that include enabling and enhancing the undertaking of marine scientific research that does not have significant adverse effects on the environment.

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13 Research applicant may apply for authorisation for marine scientific research

- (1) A person (the **research applicant**) may apply to the EPA for an authorisation to undertake an activity for the purposes of marine scientific research in the Kermadec/Rangitāhua Ocean Sanctuary. 10
- (2) **Sections 14 to 20** apply to that application.
- (3) ~~To avoid doubt~~ However, those sections affect only marine scientific research that involves an activity prohibited by **section 9**. 15

14 Pre-application engagement with Kermadec/Rangitāhua iwi authorities

- (1) A research applicant must, before applying for an authorisation,—
 - (a) inform the Kermadec/Rangitāhua iwi authorities of the proposal and seek their views on it; and
 - (b) give the Kermadec/Rangitāhua iwi authorities a reasonable opportunity to provide their views on the proposal. 20
- (2) The information provided under **subsection (1)(a)** must include a description of each activity (in sufficient detail to enable an informed assessment of the proposed nature, extent, timing, location, and effects of the activity) and of the purposes of the marine scientific research. 25

15 Application for authorisation for marine scientific research

- (1) The application for an authorisation must—
 - (a) be made in the prescribed form; and
 - (b) describe each activity (in sufficient detail to enable an informed assessment of the proposed nature, extent, timing, location, and effects of the activity), state who will undertake the activity, and describe the purposes of the marine scientific research; and 30
 - (c) state— whether or not (and in what ways) the purposes of the marine scientific research are consistent with the Kermadec/Rangitāhua conservation management strategy; and 35
 - (i) ~~whether or not (and in what ways) the purposes of the marine scientific research are consistent with the Kermadec conservation management strategy; and~~

-
- (ii) ~~if the application relates to any activity listed in **section 19(2)(a)**, why the activity is necessary to achieve the purposes of the marine scientific research; and~~
- (d) include a report that contains—
- (i) a copy, or summary, of the views provided under **section 14**; and 5
- (ii) details of any change that has been made to the proposed activity as a result of the pre-application engagement under **section 14**; and
- (e) contain, or be accompanied by, any other prescribed matters.
- (2) If the application relates to an activity to be undertaken partly in the Kermadec/Rangitāhua Ocean Sanctuary and partly in the Kermadec/Rangitāhua marine reserve, the EPA must— 10
- (a) refer the part of the application that relates to the Kermadec/Rangitāhua marine reserve to the Director-General for consideration under section 11 of the Marine Reserves Act 1971; and 15
- (b) give written notice to the research applicant of that action and of the fact that the authorisation under this Act must relate only to the part of the activity to be undertaken in the Kermadec/Rangitāhua Ocean Sanctuary.
- 16 EPA must refer incomplete application back to research applicant**
- (1) If the EPA considers that the application does not provide sufficient information to make a decision on the application, the EPA— 20
- (a) must not make a decision on the application; and
- (b) must refer the application back to the research applicant identifying the additional information that the EPA considers it needs to make a decision. 25
- (2) The application may be resubmitted with additional information (and in that case, **section 14** does not apply).
- 17 EPA must seek further advice on application to inform consideration**
- For the purposes of informing its consideration of the application, the EPA—
- (a) must seek advice from the Director-General; and 30
- (b) may seek advice from any other person it thinks fit.
- 18 Other requirements for EPA's process**
- (1) If the EPA proposes to decline the application under **section 19(2)**, the EPA must—
- (a) notify the research applicant in writing of the EPA's proposed decision and its reasons; and 35

- (b) give the research applicant a reasonable period within which to respond (which must not be less than the prescribed minimum period, if any); and
- (c) consider any response made by the research applicant within that period.
- (2) The EPA must notify the research applicant in writing of its final decision on the application. 5
- (3) The EPA must comply with any other requirements set out in the regulations in relation to the application.
- 19 ~~Application may be declined on limited grounds only~~ How EPA determines application for authorisation** 10
- ~~(1) The EPA must grant the application unless **subsection (2)** applies.~~
- ~~(2) The EPA must decline the application if —~~
- ~~(a) the EPA determines that the proposed marine scientific research involves 1 of the following activities:~~
- ~~(i) drilling; 15~~
- ~~(ii) the use of explosives;~~
- ~~(iii) the introduction of harmful substances;~~
- ~~(iv) the installation of artificial islands, installations, and structures; and~~
- ~~(b) the EPA considers that the activity is unnecessary to achieve the purposes of the marine scientific research. 20~~
- (1) The EPA must consider whether the activity to be undertaken is for the purposes of marine scientific research and, —
- (a) if it determines that the activity is not for those purposes, decline the application; and 25
- (b) if it determines that the activity is for those purposes, comply with **subsection (2)**.
- (2) The EPA must consider whether the activity is likely to have significant adverse effects on the environment and, —
- (a) if it determines that the activity is not likely to have those effects, grant the application; and 30
- (b) if it determines that the activity is likely to have those effects, decline the application.
- (3) Before making the determination required by **subsection (2)**, the EPA must consider whether it is reasonably capable of doing so without obtaining and considering an impact assessment and, — 35
- (a) if it determines that it is reasonably capable of doing so, make that determination without obtaining and considering an impact assessment; and

- (b) if it determines that it is not reasonably capable of doing so, make that determination after obtaining and considering an impact assessment.
- (4) However, the EPA may grant or decline an application under **subsection (2)(a) or (b)** only if the EPA has had regard to—
- (a) **section 12A** (purpose of provisions on authorisations for marine scientific research); and 5
 - (b) the Kermadec/Rangitāhua conservation management strategy; and
 - (c) the views of the Kermadec/Rangitāhua iwi authorities on the proposal (but only to the extent that those views have already been provided under **sections 14, 16, and 17**, and relate to whether the activity is likely to have significant adverse effects on the environment); and 10
 - (d) the environmental characteristics and values of the area affected; and
 - (e) the nature of the techniques to be used; and
 - (f) the terms and conditions set out in any regulations made under **section 27(1)(b)**; and 15
 - (g) the terms and conditions (if any) the EPA could, or is likely to, impose under **section 19A** in granting an authorisation; and
 - (h) the importance of, and of enabling, the scientific study of the environment; and
 - (i) any other relevant matter. 20

19A EPA may impose terms and conditions on authorisation

- (1) The EPA may, in granting or changing the authorisation, impose terms and conditions on the authorisation that the EPA considers are appropriate for the purpose of ensuring that the undertaking of the activity covered by the authorisation does not have significant adverse effects on the environment. 25
- (2) Terms and conditions imposed under **subsection (1)** must be not inconsistent with any regulations made under **section 27(1)(b)**.

20 Matters to be specified in authorisation

- (1) The EPA must confirm, in granting the authorisation,—
- (a) who is authorised to undertake the activity; and 30
 - (b) the term of the authorisation; and
 - (c) the activities authorised (including their nature, extent, timing, and location as set out in the application); and
 - (ca) the terms and conditions (if any) imposed by the EPA on the authorisation in granting the authorisation; and 35
 - (d) the prescribed matters (if any).
- (2) The term of the authorisation must not exceed ~~2~~5 years.

21 Authorisation is transferable

A holder of an authorisation may, by written notice to the EPA, transfer an authorisation to another person or add another person to the authorisation.

22 ~~Change to scope of~~ Application for change to authorisation

- (1) A holder of an authorisation may apply to the EPA for a change in the activities authorised, or in the terms and conditions imposed by the EPA on the authorisation (whether imposed in granting, changing under this section, or reviewing any terms and conditions of, the authorisation). 5
- (2) **Sections 14 to 20** apply to the application for that change with all necessary modifications. 10

22A EPA may review terms and conditions

- (1) The EPA may during the term of an authorisation review the authorisation and do either or both of the following:
- (a) impose terms and conditions on the authorisation:
 - (b) amend, revoke, or replace any terms and conditions imposed by the EPA on the authorisation (whether imposed in granting, changing, or reviewing under this section the authorisation). 15
- (2) The EPA may act under **subsection (1)** only if satisfied that it should do so for the purpose of ensuring that the use of the authorisation does not have significant adverse effects on the environment, and because of all or any of the following: 20
- (a) the authorisation or any terms and conditions imposed by the EPA on the authorisation was or were, or is or are likely to have been, influenced materially by an error or omission in the application for the authorisation or in an application for a change to the authorisation: 25
 - (b) the authorisation or any terms and conditions imposed by the EPA on the authorisation would have been, or is or are likely to have been, influenced materially by information available to the EPA only after the authorisation was granted, last changed, or last reviewed under this section:
 - (c) the use of the authorisation has caused significant adverse effects on the environment that were not, or are of a scale or intensity that was not, anticipated when the authorisation was granted, last changed, or last reviewed under this section. 30
- (3) The EPA may act under **subsection (1)** only by written notice to the holder, and only if the EPA has first— 35
- (a) notified the holder in writing of the EPA's proposed decision and its reasons; and
 - (b) given the holder a reasonable period within which to respond (which must not be less than the prescribed minimum period, if any); and

- (c) considered any responses made by the holder within that period.
- (4) The EPA may act under **subsection (1)** without complying with, or reapplying, any process, requirement, or test specified in **sections 14 to 17 and 19.**
- (5) Terms and conditions imposed under **subsection (1)** must be not inconsistent with any regulations made under **section 27(1)(b).** 5
- 22B EPA may revoke authorisation whose use creates significant adverse effects that cannot be mitigated**
- (1) The EPA may revoke an authorisation if, as a result of reviewing the authorisation or terms and conditions imposed by the EPA on the authorisation (whether imposed in granting, changing, or reviewing the authorisation), the EPA is satisfied that— 10
- (a) the use of the authorisation creates adverse effects on the environment; and
- (b) the adverse effects are significant, and cannot be avoided, mitigated, or remedied by making the authorisation subject to, or to more appropriate, terms and conditions imposed by the EPA in reviewing the authorisation. 15
- (2) The EPA may act under **subsection (1)** only by written notice to the holder, and only if the EPA has first—
- (a) notified the holder in writing of the EPA’s proposed decision and its reasons; and 20
- (b) given the holder a reasonable period within which to respond (which must not be less than the prescribed minimum period, if any); and
- (c) considered any responses made by the holder within that period.
- 22C EPA to keep records**
- (1) The EPA must keep records and information relevant to the performance of its functions under **sections 14 to 22B.** 25
- (2) The EPA must, after making a decision on an application or other matter under **sections 14 to 22B,** make available records and information kept by the EPA in respect of the decision.
- (3) In this section, **make available,** in respect of records and information, means the records and information— 30
- (a) must be kept at the offices of the EPA and made available to members of the public on request; and
- (b) may be kept on an Internet site maintained by, or on behalf of, the EPA.
- 22D Appeal to High Court on question of law** 35
- (1) The holder of, or the research applicant for, an authorisation may appeal to the High Court against the whole or a part of a decision of the EPA under this Act

made in respect of that holder or applicant and that authorisation, and that is a decision to do all or any of the following:

- (a) grant or decline an application for an authorisation:
- (b) impose terms and conditions on an authorisation in granting the authorisation: 5
- (c) grant or decline an application for a change in the activities authorised, or in the terms and conditions imposed by the EPA on an authorisation in granting, changing, or reviewing the authorisation:
- (d) impose terms and conditions on an authorisation, or amend, revoke, or replace any terms and conditions imposed by the EPA on an authorisation, in reviewing the authorisation: 10
- (e) revoke an authorisation.
- (2) An appeal brought under this section may be only on a question of law.
- (3) Every appeal under this section must be brought and dealt with in accordance with the High Court Rules. 15

Kermadec/Rangitāhua Conservation Board

23 Establishment of Kermadec/Rangitāhua Conservation Board

- (1) The Kermadec/Rangitāhua Conservation Board is established, and must be treated as established, under section 6L(1) of the Conservation Act 1987.
- (2) The Kermadec/Rangitāhua Conservation Board— 20
 - (a) is a Conservation Board under the Conservation Act 1987 with jurisdiction over the Kermadec/Rangitāhua area; and
 - (b) must carry out, in the ~~Kermadec Ocean Sanctuary~~ Kermadec/Rangitāhua area, the functions specified in section 6M of that Act; and
 - (c) has the powers conferred by section 6N of that Act. 25
- (3) The Conservation Act 1987 applies to the Kermadec/Rangitāhua Conservation Board with the following modifications:
 - (a) section 6L(2) and (3) (relating to the name and area of a board) does not apply:
 - (b) section 6P(1) to (7D) (relating to membership) does not apply: 30
 - (c) section 6R(2) (relating to membership) does not apply to an appointment made under **section 24(1)(a) or (b)**:
 - (d) section 6S(1) (relating to the chairperson) does not apply.

24 Appointment of members of Kermadec/Rangitāhua Conservation Board

- (1) The Kermadec/Rangitāhua Conservation Board consists of 7 members appointed by the Minister as follows: 35
 - (a) 1 member appointed on the nomination of the trustees of Te Manawa:

- (b) 1 member appointed on the nomination of the trustees of Te Rūnanga Nui;
 - (c) 1 member appointed on the nomination of the Minister ~~of Māori Affairs~~ for Māori Development;
 - (d) 4 members appointed by the Minister. 5
- (2) In relation to the appointment under **subsection (1)(c)**, the Minister ~~of Māori Affairs~~ for Māori Development must be satisfied that the person nominated is appropriate to represent ~~the interests of iwi in~~ te iwi Māori who have cultural, historical, spiritual, and traditional associations with the Kermadec/Rangitāhua area (other than those already represented by the nominations of the Kermadec/Rangitāhua iwi authorities). 10
- (3) In relation to each appointment under **subsection (1)(d)**, the Minister must—
- (a) make the appointment only after giving public notice in accordance with **subsection (4)**; and
 - (b) be satisfied that the person has the skills, knowledge, or experience to— 15
 - (i) participate effectively in carrying out the functions of the Kermadec/Rangitāhua Conservation Board; and
 - (ii) contribute to the achievement of the purpose of the Kermadec/Rangitāhua Conservation Board.
- (4) A notice required by **subsection (3)(a)** must— 20
- (a) state the number of appointments that the Minister intends to make to the Kermadec/Rangitāhua Conservation Board under **subsection (1)(d)**; and
 - (b) call for nominations for members of the Kermadec/Rangitāhua Conservation Board to be sent to the Minister; and 25
 - (c) state a date (which must be at least 28 days after the date of the first publication of the notice) after which the Minister may decline to accept those nominations; and
 - (d) be published by the means, and with the frequency or for the period, that the Minister thinks fit. 30

25 Chairperson of Kermadec/Rangitāhua Conservation Board

- (1) The Minister must, by written notice to the Kermadec/Rangitāhua Conservation Board, appoint one of its members to be the chairperson of the Board after consultation with each of the Kermadec/Rangitāhua iwi authorities.
- (2) The chairperson holds that office until the expiry of the term of appointment specified in the notice of appointment (or any earlier date on which the member ceases to hold office). 35

26 Replacement of members

- (1) The Minister must remove a member of the Kermadec/Rangitāhua Conservation Board appointed on the nomination of a nominator if requested in writing to do so by the relevant nominator.
- (2) If the Minister is concerned that a member of the Kermadec/Rangitāhua Conservation Board appointed under **section 24(1)(a) or (b)** is no longer able properly to discharge the obligations of a member of the Board, the Minister must—
 - (a) inform the relevant nominator in writing of the Minister’s concern; and
 - (b) seek to resolve the concern through discussion with the nominator; and
 - (c) remove the member if the concern is not resolved; and
 - (d) if **paragraph (c)** applies, request a new nomination from the relevant nominator; and
 - (e) appoint a new member of the Kermadec/Rangitāhua Conservation Board in accordance with **section 24** when the Minister has received a nomination from the relevant nominator.
- (3) If a Kermadec/Rangitāhua iwi authority is concerned that a member of the Kermadec/Rangitāhua Conservation Board (other than a person appointed on the authority’s own nomination) is no longer able properly to discharge the obligations of a member of the Board,—
 - (a) the Kermadec/Rangitāhua iwi authority may inform the Minister in writing of the Kermadec/Rangitāhua iwi authority’s concern; and
 - (b) the Minister must consider the matters set out in the notice; and
 - (c) if the member is appointed under **section 24(1)(a) or (b)**, **subsection (2)** applies; and
 - (d) if the member is appointed under **section 24(1)(c) or (d)** and the Minister is concerned that the member is not able properly to discharge the obligations of a member of the Conservation Board for a reason given in section 6R(2) of the Conservation Act 1987, the Minister may remove that member; and
 - (e) the Minister must give notice in writing to the relevant Kermadec/Rangitāhua iwi authority of the outcome of the process undertaken under this subsection.

*Regulations***27 Regulations**

- (1) The Governor-General may, by Order in Council made on the joint recommendation of the Minister and the Minister for the Environment, make regulations—for all or any of the following purposes:

-
- (a) providing for additional requirements for applications, and the process for consideration and granting of applications, for authorisation or for changing the authorisation, and the process for review by the EPA of terms and conditions of authorisation for the purposes of **sections 14 to 22B** (including forms, any minimum periods for response, and the matters to be specified in authorisations): 5
- (b) specifying terms and conditions that apply to marine scientific research undertaken (after the commencement of the regulations specifying those terms and conditions) under an authorisation granted (before or after that commencement) by the EPA under this Act: 10
- (c) for the purpose of recovering so much of the costs of the performance of the EPA's functions under **sections 14 to 22B** as is not provided for by money appropriated by Parliament for that purpose, by—
- (i) requiring the payment to the EPA of fees and charges by applicants for authorisations under the Act in connection with the performance of those functions: 15
 - (ii) prescribing the amounts of those fees and charges or the method by which those fees and charges must be calculated or ascertained (including, without limitation, hourly charges):
 - (iii) authorising the EPA to require payment of any costs incurred by the EPA in connection with those functions: 20
- (d) providing for any other matters contemplated by this Act ~~and~~, necessary for its administration, or necessary for giving it full effect.
- (2) The Minister and the Minister for the Environment must, before making a recommendation under **subsection (1)(a)**, have regard to New Zealand's rights and obligations under the United Nations Convention on the Law of the Sea 1982. 25
- (2A) The Minister and the Minister for the Environment must, before making a recommendation under **subsection (1)**, consult the persons and organisations that the Ministers consider appropriate, having regard to the subject matter of the proposed regulations. 30
- (3) An Order in Council made under **subsection (1)** may authorise the EPA to refund or waive, in whole or in part and on any conditions that are prescribed, payment of any fee, charge, or cost payable in relation to any person or class of persons. 35
- (4) The EPA may refuse to perform or exercise a function, power, or duty until the prescribed fee, charge, or cost is paid.
- (5) Any fee, charge, or cost payable to the EPA is recoverable by the EPA in a court of competent jurisdiction as a debt due to the EPA.

*Review of operation of Act***27A Review of operation of Act**

- (1) The review panel must, before the beginning of **1 November 2041** (which is the expiry of 25 years after the commencement of this section), commence a review of the operation and effectiveness of this Act in accordance with the terms of reference. 5
- (2) The review panel must be appointed, and its terms of reference must be set, under **section 27B**.
- (3) The purpose of the review is to review—
- (a) the extent to which the purpose of this Act has been achieved; and 10
 - (b) any other specific matters that are required by the terms of reference.
- (3A) The terms of reference must ensure that, as part of the review, there is reasonable opportunity for interested persons and the public to make submissions on the matters being reviewed, and for the review panel, before preparing a report on the review, to have regard to those submissions. 15
- (4) The review panel must provide a report on the review to the Minister and the Minister for the Environment.
- (5) The Minister must present a copy of the report to the House of Representatives as soon as practicable after receiving it.

27B Appointment of review panel and terms of reference 20

- (1) The Minister and the Minister for the Environment must jointly appoint the review panel as follows:
- (a) 1 member appointed on the nomination of the Kermadec/Rangitāhua Conservation Board;
 - (b) 1 member appointed on the nomination of Te Ohu Kai Moana Trustee Limited (or any successor body); 25
 - (c) 1 member appointed by the Ministers after consultation with the other consultees;
 - (d) 3 members appointed by the Ministers.
- (2) The Minister and the Minister for the Environment must jointly set the terms of reference for the review after consultation with the Kermadec/Rangitāhua Conservation Board, Te Ohu Kai Moana Trustee Limited (or any successor body), and the other consultees. 30
- (3) In this section, **other consultees** means the other persons that the Ministers determine, after consultation with the Minister for Māori Development, represent te iwi Māori who have cultural, historical, spiritual, and traditional associations with the Kermadec/Rangitāhua area. 35

Part 3 Amendments to other enactments

Amendments to Biosecurity Act 1993

28 Amendments to Biosecurity Act 1993

Section 29 amends the Biosecurity Act 1993.

5

29 Section 7B amended (Relationship with Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012)

(1) In the heading to section 7B, after “2012”, insert “and Kermadec/Rangitāhua Ocean Sanctuary Act 2016”.

(2) After section 7B(5), insert:

10

~~(6) If an exemption is granted under subsection (1) or continued by regulations made under section 7D,—~~

~~(a) **Part 2** of the Kermadec Ocean Sanctuary Act **2016** also does not apply to the action while the exemption continues; and~~

~~(b) subsection (5) and section 7D apply (and, for that purpose, any reference in those provisions to Part 2 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 also includes a reference to **Part 2** of the Kermadec Ocean Sanctuary Act **2016**).~~

15

~~(6) An action taken under this Act in an attempt to eradicate or manage an organism, and taken in the Kermadec/Rangitāhua Ocean Sanctuary (as defined by **section 4** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**),—~~

20

~~(a) is not a prohibited activity under **section 9** of that Act (see **section 10(2)(aa)** of that Act); and~~

~~(b) is therefore also not a Kermadec/Rangitāhua prohibited activity as defined in **section 4(1)** of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; but~~

25

~~(c) may be an action that would be in breach of provisions in Part 2 of that Act (or of provisions elsewhere in that Act) that are unrelated to Kermadec/Rangitāhua prohibited activities.~~

Amendments to Conservation Act 1987

30

30 Amendments to Conservation Act 1987

Sections 31 to 33 amend the Conservation Act 1987.

31 Section 17C amended (General policy under more than 1 Act)

In section 17C(1), after “Marine Mammals Protection Act 1978,” insert “the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**,”.

35

32 Section 17D amended (Conservation management strategies)

In section 17D(1), replace “National Parks Act 1980, Hauraki Gulf Marine Park Act 2000” with “National Parks Act 1980, the Hauraki Gulf Marine Park Act 2000, the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**”.

33 Schedule 1 amended

5

In Schedule 1, insert in its appropriate alphabetical order:

Kermadec/Rangitāhua Ocean Sanctuary Act **2016**

Amendment to Crown Minerals Act 1991

33A Amendment to Crown Minerals Act 1991

Section 33B amends the Crown Minerals Act 1991.

10

33B New section 28B inserted (No permits may be granted for land in Kermadec/Rangitāhua Ocean Sanctuary)

After section 28A, insert:

28B No permits may be granted for land in Kermadec/Rangitāhua Ocean Sanctuary

15

(1) No permit may be granted or extended in respect of land in the Kermadec/Rangitāhua Ocean Sanctuary (as defined by **section 4** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**).

(2) This section overrides any enactment in or made under (for example, sections 4 and 5AA of) the Continental Shelf Act 1964.

20

(3) The Minister must not accept a permit application that is contrary to this section.

Amendments to EEZCS Act

34 Amendments to EEZCS Act

Sections 35 to 43 amend the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.

25

35 Section 4 amended (Interpretation)

In section 4(1), insert in its appropriate alphabetical order:

Kermadec/Rangitāhua prohibited activity means an activity prohibited by **section 9(2)(b) to ~~(e)~~(f)** (read together with **section 10**) of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**

30

36 Section 7 amended (Meaning of marine management regime)

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

(gb) Kermadec/Rangitāhua Ocean Sanctuary Act **2016**:

37 Section 20H amended (Emergency dumping)

After section 20H(3)(a), insert:

- (ab) consult the Director-General of Conservation if it is an emergency dumping consent to dump waste or other matter into waters in the Kermadec/Rangitāhua Ocean Sanctuary (as defined by **section 4(4)** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**); and

5

38 New subpart 2A of Part 2 inserted

After section 20J, insert:

Subpart 2A—Additional restrictions on activities in Kermadec/Rangitāhua Ocean Sanctuary

10

20K Additional restrictions on activities in Kermadec/Rangitāhua Ocean Sanctuary

- (1) No person may undertake a Kermadec/Rangitāhua prohibited activity.
- (2) The effect of **subsection (1)** is that—
- (a) no person may apply for a marine consent for a Kermadec/Rangitāhua prohibited activity, and a consent for a Kermadec/Rangitāhua prohibited activity must not be granted, under this Act:
- (b) no Kermadec/Rangitāhua prohibited activity is a permitted activity or authorised by section 21, 22, or 23.

15

39 New section 37AA inserted (Kermadec/Rangitāhua prohibited activities)

20

After section 37, insert:

37AA Kermadec/Rangitāhua prohibited activities

- (1) A Kermadec/Rangitāhua prohibited activity is not a permitted activity, discretionary activity, or prohibited activity to which sections 35 to 37 apply.
- (2) *See* **section 20K** for how this Act applies to a Kermadec/Rangitāhua prohibited activity.

25

40 Section 132 amended (Offences in relation to activities regulated under section 20)

In section 132(3), replace “and 134B to 134D” with “, 134B to 134D, and **134EA**”.

30

41 New sections 134EA and 134EB and cross-heading inserted

After section 134E, insert:

Offences and defences in relation to Kermadec/Rangitāhua prohibited activities

134EA Offences in relation to Kermadec/Rangitāhua prohibited activities

- (1) This section applies if a Kermadec/Rangitāhua prohibited activity is carried out. 5
- (2) The following persons commit an offence:
 - (a) if the activity is one described in **section 9(2)(b)** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**, the person in charge of the operations connected with the activity and the person carrying out the activity: 10
 - (b) if the activity is one described in **section 9(2)(d)** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**,—
 - (i) the master and the owner of a ship, if the dumping is from the ship or the ship is dumped: 15
 - (ii) the person in possession of, and the owner of, an aircraft, if the dumping is from the aircraft or the aircraft is dumped: 15
 - (iii) the owner of a structure, if the dumping is from the structure or the structure is dumped: 15
 - (c) for any other activity, the person who carried out the activity. 20

134EB Strict liability and defences in relation to Kermadec/Rangitāhua prohibited activities 20

- (1) In a prosecution for an offence of breaching, or permitting a breach of, **section 134EA**, it is not necessary to prove that the defendant intended to commit the offence. 25
- (2) In a prosecution for an offence against **section 134EA**, it is a defence if the defendant proves— 25
 - (a) that the act or omission that is alleged to constitute the offence—
 - (i) was necessary to save or prevent danger to human health or safety, or the marine environment, to avert a serious threat to the ship, aircraft, or structure, or (in the case of force majeure caused by stress of weather) to secure the safety of the ship, aircraft, or structure; and 30
 - (ii) was a reasonable step to take in all the circumstances; and
 - (iii) was likely to result in less damage than would otherwise have occurred; and 35
 - (iv) was done in such a way that the likelihood of damage to human or marine life was minimised; or

	<p>(b) that the action or event to which the prosecution relates resulted from an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case—</p> <p>(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and</p> <p>(ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.</p>	5
42	<p>Section 134I amended (Additional penalties for discharge and dumping offences)</p> <p>In section 134I, replace “or 134D” with “, 134D, or 134EA(2)(b)”.</p>	10
43	<p>Section 134M amended (Application of fines for discharge and dumping offences)</p> <p>In section 134M, replace “or 134D” with “, 134D, or 134EA(2)(b)”.</p> <p><i>Amendment to Environmental Protection Authority Act 2011</i></p>	
44	<p>Amendment to Environmental Protection Authority Act 2011</p> <p>Section 45 amends the Environmental Protection Authority Act 2011.</p>	15
45	<p>Section 5 amended (Interpretation)</p> <p>In section 5, definition of environmental Act, after paragraph (c), insert:</p> <p>(ca) the Kermadec/<u>Rangitāhua</u> Ocean Sanctuary Act 2016:</p> <p><i>Amendments to Fisheries Act 1996</i></p>	20
46	<p>Amendments to Fisheries Act 1996</p> <p>Sections 47 and 48 amend the Fisheries Act 1996.</p>	
46A	<p><u>Section 13 amended (Total allowable catch)</u></p> <p>After section 13(10), insert:</p> <p>(11) <u>This section, and every notice under this section, is subject to section 113AC (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).</u></p>	25
46B	<p><u>Section 14 amended (Alternative total allowable catch for stock specified in Schedule 3)</u></p> <p>After section 14(8), insert:</p> <p>(9) <u>This section, and every notice under this section, is subject to section 113AC (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).</u></p>	30

46C Section 14B amended (Alternative total allowable catch for certain stocks)

After section 14B(8), insert:

- (9) This section, and every notice under this section, is subject to **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).

5

46D Section 20 amended (Setting and variation of total allowable commercial catch)

After section 20(5), insert:

- (6) This section, and every notice under this section, is subject to **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).

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46E Section 75 amended (Minister to set deemed value rates)

After section 75(7), insert:

- (8) This section, and every notice under this section, is subject to **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).

15

47 New sections 113AB and 113AC and cross-heading inserted

After section 113A, insert:

*Specific prohibition on fishing, and total allowable catches and levies, in
Kermadec Fishery Management Area 10*

20

113AB No fishing permitted in Kermadec Fishery Management Area 10

- (1) No person may—
- (a) take any fish, aquatic life, or seaweed from, or otherwise engage in fishing in, the Kermadec Fishery Management Area 10; or
 - (b) possess any fish, aquatic life, or seaweed taken from the Kermadec Fishery Management Area 10.
- (2) **Subsection (1)**—
- (a) overrides any permit or other exemption or authorisation for fishing under this Act or any enactment made under this Act; but
 - (b) does not apply to any fishing to which **section 10** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016** applies or to possession of fish, aquatic life, or seaweed taken in the course of that fishing.
- (3) Every person who contravenes **subsection (1)** commits an offence and is liable on conviction to the penalty set out in section 252(3).
- (4) In this section, **Kermadec Fishery Management Area 10** means the fishery management area 10—Kermadec as described in Part 1 of Schedule 1.

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35

113AC Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10

- | | | |
|-----|---|----|
| (1) | <u>This section applies if a quota management area for a quota management stock is exactly the same as Kermadec Fishery Management Area 10.</u> | |
| (2) | <u>The total allowable catch for all quota management stock in Kermadec Fishery Management Area 10 is zero.</u> | 5 |
| (3) | <u>The total allowable commercial catch for all quota management stock in Kermadec Fishery Management Area 10 is zero.</u> | |
| (4) | <u>The interim deemed value rate for a quota management stock in Kermadec Fishery Management Area 10 is zero.</u> | 10 |
| (5) | <u>The annual deemed value rate for a quota management stock in Kermadec Fishery Management Area 10 is zero.</u> | |
| (6) | <u>No levies under section 264 of the Fisheries Act 1996 apply, or can be imposed, for all quota management stock in Kermadec Fishery Management Area 10.</u> | 15 |
| (7) | <u>In this section, Kermadec Fishery Management Area 10 means the fishery management area 10—Kermadec as described in Part 1 of Schedule 1.</u> | |

48 Section 252 amended (Penalties)

After section 252(3)(ha), insert:

- | | | |
|-------|---|----|
| (hab) | section 113AB (no fishing permitted in Kermadec Fishery Management Area 10): | 20 |
|-------|---|----|

48A Section 264 amended (Levies)

After section 264(3), insert:

- | | | |
|-----|--|----|
| (4) | <u>This section, and every order under this section, is subject to section 113AC (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10).</u> | 25 |
|-----|--|----|

Consequential amendments

49 Consequential amendments

The enactments specified in **Schedule 3** are amended in the manner indicated in that schedule.

30

Schedule 1

Transitional, savings, and related provisions

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Part 1

Provisions relating to Act as enacted

5

1 No compensation payable

- (1) No compensation is payable by the Crown for any loss or damage, or any adverse effect on a right or interest, (including, without limitation, to or on the value of quota or a right to fish) arising from the enactment or operation of this Act. 10
- (2) If there is any inconsistency between this clause and any other enactment or rule of law, this clause prevails over that enactment or rule of law.

1A Effect on proceedings

- (1) This Act does not prevent—
 - (a) the completion of proceedings brought before **1 November 2016**; or 15
 - (b) the bringing of proceedings on or after **1 November 2016**.
- (2) However, proceedings in **subclause (1)(a) or (b)** determined (at first instance, or on any appeal) on or after **1 November 2016** must be determined subject to this Act (including, without limitation, **clause 1** of this Schedule).
- (3) This clause applies even if, and to the extent that, the proceedings concerned are amended before, on, or after **1 November 2016**. 20

2 Effect on marine scientific research

- (1) This clause applies to the activity of marine scientific research if—
 - (a) the activity is a permitted activity for the purposes of the EEZCS Act immediately before the relevant date; and 25
 - (b) the pre-activity requirements in Schedule 1 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects—Permitted Activities) Regulations 2013 have been complied with before the relevant date in relation to the activity; and
 - (c) that activity is, on the relevant date, a Kermadec/Rangitāhua prohibited activity. 30
- (2) The activity may be undertaken without an authorisation, as if it were still a permitted activity for the purposes of the EEZCS Act, until the first anniversary of the relevant date.
- (3) In this clause, **relevant date** means the later of— 35
 - (a) the date on which this clause comes into force; and

- (b) the date on which regulations made under **section 27(1)(a)** come into force.

3 Effect on other existing permits and permit applications and authorisations

- (1) This clause applies to any activity other than an activity to which **clause 2** applies. 5
- (2) On the date on which this clause comes into force,—
- (a) a person must immediately cease any Kermadec/Rangitāhua prohibited activity despite any existing permit or authorisation; and
- (b) a person must immediately cease considering any application for a permit or an authorisation to undertake a Kermadec/Rangitāhua prohibited activity. 10

4 Role and jurisdiction of Auckland Conservation Board to cease

On and from the date on which **section 23** comes into force, the Auckland Conservation Board, as set up under Part 2A of the Conservation Act 1987, ceases to have jurisdiction within or over the Kermadec/Rangitāhua area. 15

5 Existing parts of conservation management strategy apply until new Kermadec/Rangitāhua conservation management strategy approved

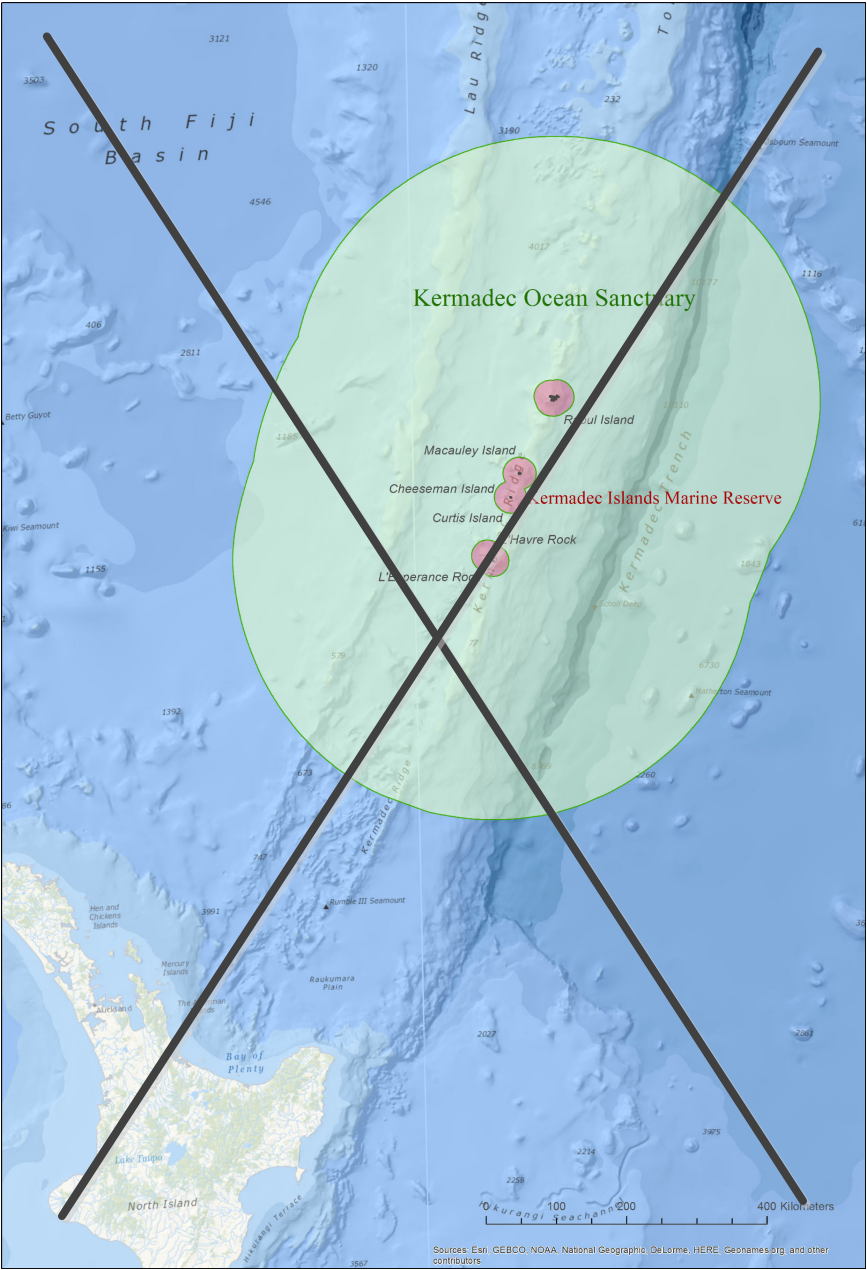
- (1) This clause applies until a conservation management strategy is approved under section 17F of the Conservation Act for the Kermadec/Rangitāhua area. 20
- (2) The conservation management strategy that applies to the Kermadec/Rangitāhua area for the purposes of the Conservation Act 1987 is the part or parts of a conservation management strategy that directly relate to the whole or any part of the Kermadec/Rangitāhua marine reserve and the Kermadec/Rangitāhua Islands (to the extent that it is relevant). 25

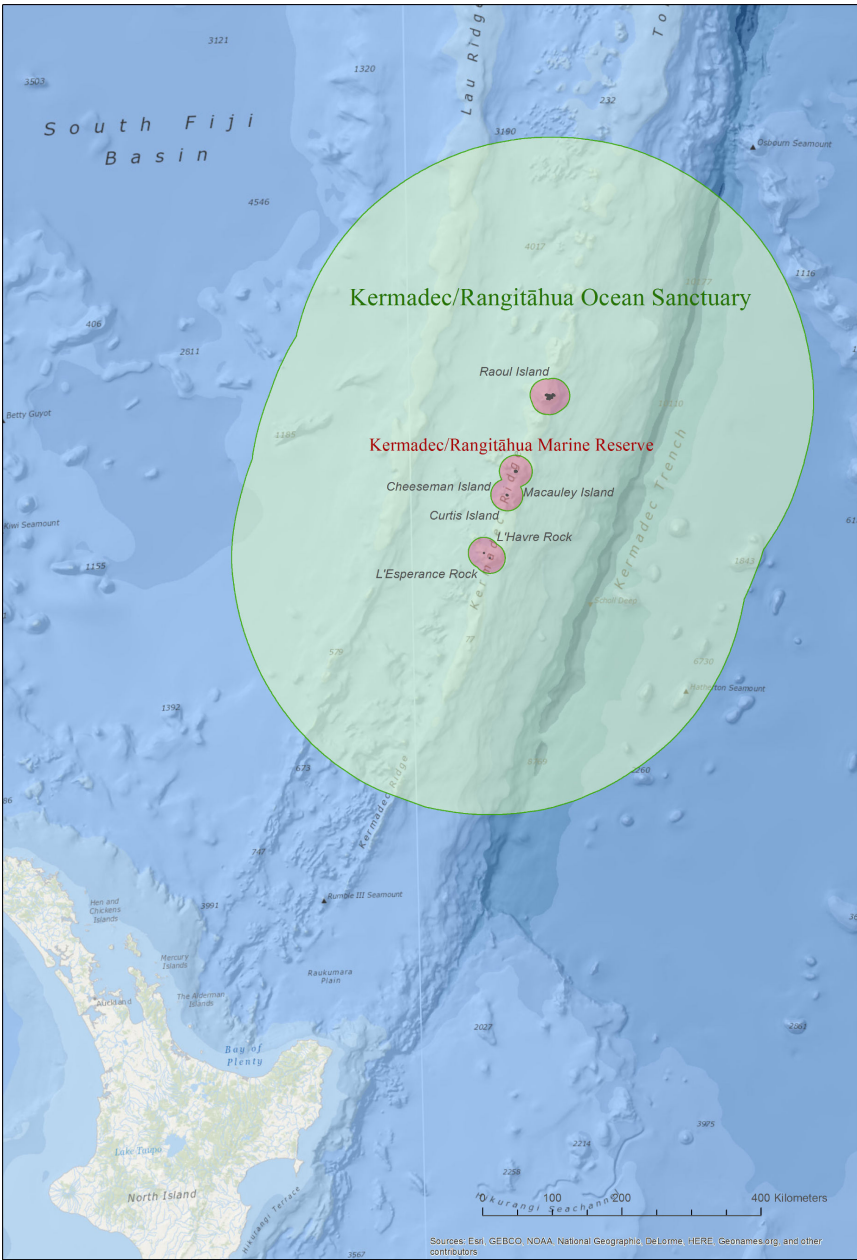
Schedule 2
Kermadec/Rangitāhua Ocean Sanctuary

Part 1
Indicative map showing general location

s 8

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Part 2

Description of geographic boundaries

An area—

- (a) enclosed by a line—
 - (i) commencing at the easternmost point of the exclusive economic zone boundary nearest 34°22.10'S and 179°29.60'E; and then 5
 - (ii) heading in generally north-westerly, northerly, easterly, and southerly directions along the boundary of the exclusive economic zone to the westernmost point of the exclusive economic zone boundary nearest 34°34.20'S and ~~179°51.20'E~~179°51.20'W; and then 10
 - (iii) proceeding in a generally westerly direction directly to the point of commencement; and
- (b) including all waters, seabed, and subsoil in the area; but
- (c) excluding any part of the area that is a marine reserve or is not in the exclusive economic zone. 15

Schedule 3

Consequential amendments

s 49

Part 1

Amendment to Act

5

Maritime Transport Act 1994 (1994 No 104)

In section 467A, insert as subsection (2):

- (2) **Subpart 2A** of Part 2 of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 does not apply to activities listed in **section 10(2)(c)** of the Kermadec/Rangitāhua Ocean Sanctuary Act **2016**.

10

Part 2

Amendments to legislative instruments

Fisheries (Amateur Fishing) Regulations 2013 (SR 2013/482)

In regulation 7(1), revoke the definitions of **Auckland and Kermadec FMA** and **Kermadec FMA**.

15

In regulation 7(2), delete “and Kermadec”.

In the Part 3 heading, delete “**and Kermadec**”.

In regulations 55, 56, 57, 58, 59, 64, 67, and 76, delete “and Kermadec” in each place.

In regulation 62(1), delete “or the Kermadec FMA” in each place.

20

In Schedule 3, in the Part 2 heading, delete “**and Kermadec**”.

In the Schedule 6 heading, delete “**and Kermadec**”.

In the Schedule 14 heading, delete “**and Kermadec**”.

In Schedule 14, in the heading to clause 2, delete “**and Kermadec**”.

In Schedule 14, clause 2(1), delete “**and Kermadec**”.

25

In Schedule 14, clause 3(1)(s), delete “and Kermadec”.

In Schedule 19, in the Part 2 heading, delete “**and Kermadec**”.

In Schedule 19, Part 2, items relating to regulations 55(3), 56(2), 57(2), 58(2), 59(4), and 76(1), delete “and Kermadec” in each place.

Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 (SR 1986/216)

30

In regulation 1(1), replace “and Kermadec Areas” with “Area”.

In regulation 2(1), revoke the definition of **Kermadec fishery management area**.

Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 (SR 1986/216)—*continued*

Revoke regulation 18A.

In regulation 20, delete “or the Kermadec fishery management area”.

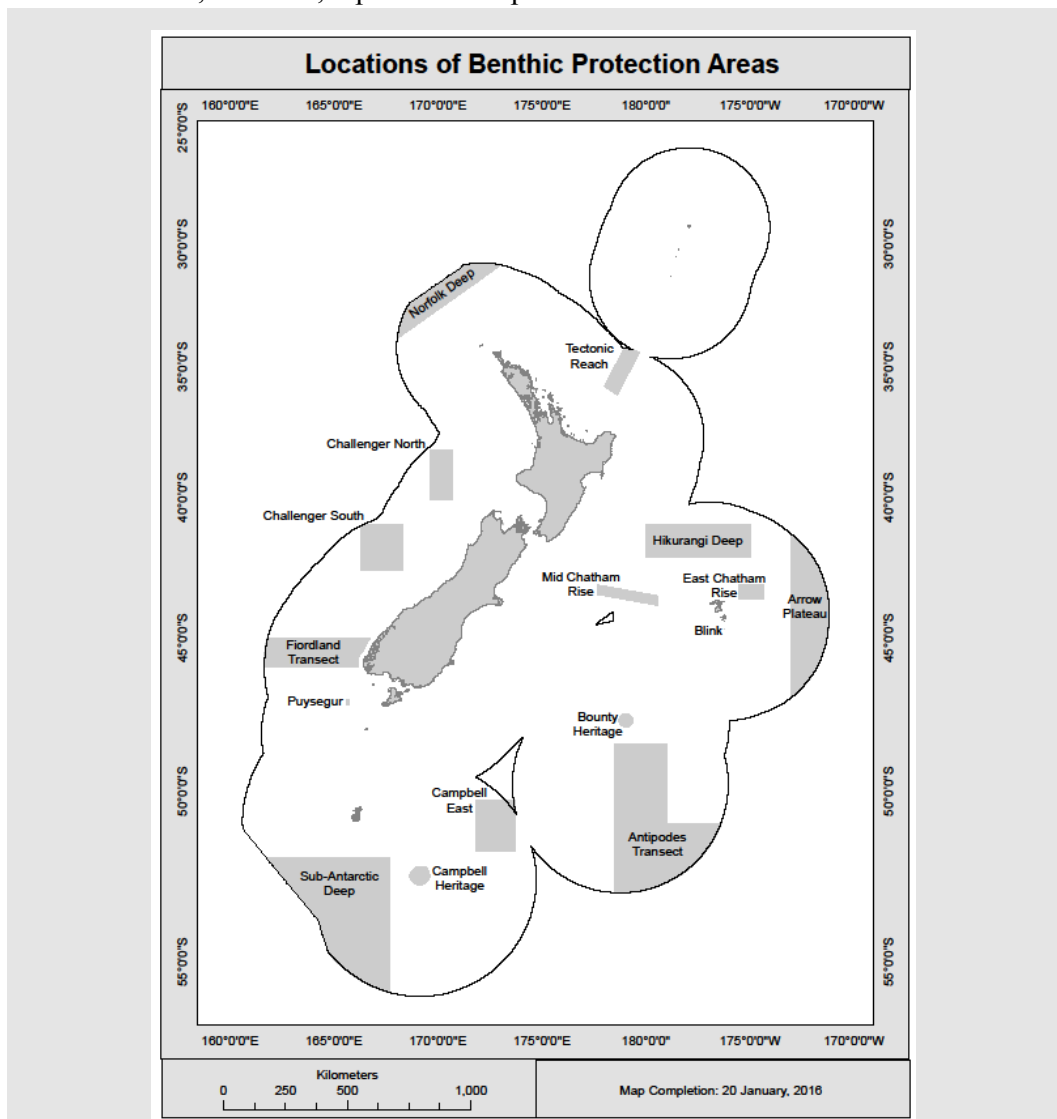
Revoke regulation 20A.

In regulation 24(2), replace “18A” with “18AA”.

Fisheries (Benthic Protection Areas) Regulations 2007 (SR 2007/308)

5

In the Schedule, in Part 1, replace the map with:



In the Schedule, in Part 2, revoke the item relating to Kermadec.

Fisheries (Reporting) Regulations 2001 (SR 2001/188)

In Schedule 3, table 8, paragraph (a), replace “and Kermadec Areas” with “Area”.

Fisheries (Total Allowable Catch, Total Allowable Commercial Catch, and Deemed Value Rates) Notice 2015 (LI 2015/211)

After clause 4(2), insert:

- (3) This clause is subject to **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10) of the Fisheries Act 1996.

After clause 5(2), insert:

- (3) This clause is subject to **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10) of the Fisheries Act 1996.

In clause 6(4), after “clause 8”, insert “and **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10) of the Fisheries Act 1996”.

In clause 7(7), after “clause 8”, insert “and **section 113AC** (Total allowable catches and levies for quota management stocks in Kermadec Fishery Management Area 10) of the Fisheries Act 1996”.

In Schedule 1, repeal the items relating to ANC10, BAR10, BCO10, BNS10, BUT10, BYX10, CDL10, CHC10, CRA10, ELE10, EMA10, FLA10, FRO10, GAR10, GLM10, GMU10, GSC10, GSH10, GUR10, HAK10, HOK10, HOR10, HPB10, JDO10, JMA10, KAH10, KIC10, KIN10, LDO10, LEA10, LIN10, MOK10, OEO10, ORH10, PAD10, PAR10, PAU10, PIL10, POR10, PRK10, RBT10, RBY10, RCO10, RIB10, RSK10, RSN10, SCC10, SCH10, SCI10, SKI10, SNA10, SPD10, SPE10, SPO10, SPR10, SQU10T, SSK10, STA10, SUR10, SWA10, TAR10, TRE10, TRU10, WAR10, WWA10, and YEM10.

In Schedule 2, first column, delete “, BNS10”, “, HOR10”, “, SCC10”, and “, SNA10”.

Legislative history

8 March 2016
15 March 2016

Introduction (Bill 120–1)
First reading and referral to Local Government and Environment Committee