Voluntary National Cetacean Conservation Report 2022

Submitted by the Government of New Zealand to the Conservation Committee
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1. Legal developments

As the New Zealand Government has reported previously, the core legal framework in New Zealand for the protection of cetaceans includes the following:

- The *Marine Mammals Protection Act 1978* (this provides for the full protection of cetaceans in New Zealand as well as the compulsory reporting of any capture of marine mammals).
- The *Marine Mammals Protection Regulations 1992* (this prescribes the behaviour of persons, vessels, aircraft and vehicles in the vicinity of marine mammals).
- The *Fisheries Act 1996* (this provides protections to marine mammals and other wildlife from fishing-related mortality). Regulations have been implemented under this Act to restrict or prohibit the use of set nets (gill nets) or trawl nets in areas where the endemic Hector's and Māui dolphins are most commonly found.[1]
- The *Exclusive Economic Zone and Continental Shelf (Environmental Effects-Permitted Activities) Regulations 2013* (this requires any seismic survey in the New Zealand Exclusive Economic Zone (EEZ) to comply with the Department of Conservation code of conduct for seismic surveying.[2])

The New Zealand Government has established nine sanctuaries to protect marine mammals around the coasts of New Zealand. The relevant legislative instruments establishing these sanctuaries were created under the *Marine Mammals Protection Act 1978* and the *Kaikōura (Te Tai o Marokura) Marine Management Act 2014*.

The oldest of these sanctuaries was created in 1993 around the Auckland Islands to protect the breeding and foraging grounds of New Zealand sea lions and the breeding grounds of southern right whales. The newest sanctuary in New Zealand was established in 2021 at the Bay of Islands (Te Pēwhairangi) to protect 'Nationally Endangered[3]' bottlenose dolphins from high levels of vessel traffic. Two other sanctuaries were created in Kaikōura in 2014, as discussed below.

The five remaining sanctuaries were established in 2008 to increase protection for Hector's and Māui dolphins from a range of human activities. These sanctuaries were expanded in 2020 and amended to prohibit seismic surveying and seabed mining. Protection of these dolphins from fishing-related impacts was first provided by regulations issued under the *Fisheries Act 1996* in 2003 and then extended in 2008, 2010, 2012, and 2013, with a substantial expansion in 2020.

[1] This includes, for instance, the west coast of the North Island, areas of the South, East and West coasts of the South Island.
[2] The Code of Conduct requires significant pre-survey planning, consultation, and sound modelling, as well as specifying monitoring and mitigation actions and reporting requirements.
[3] Under the New Zealand Threat Classification System

In 2014, New Zealand implemented a package of protection measures for the Kaikōura area, including a marine reserve, whale and fur seal sanctuaries, customary management areas, and revised fishing limits. New Zealand also established three new marine reserves in the sub-Antarctic islands[4] (which encompass the breeding grounds of New Zealand southern right whales) and a marine reserve in Akaroa Harbour (which sits at the heart of Hector's dolphin habitat around Banks Peninsula). These measures are designed to contribute to the goal of establishing a comprehensive network of MPAs throughout New Zealand's marine environment and ensuring the long-term viability and conservation of NZ's premier ecotourism destinations.

New Zealand continues to work towards establishing marine protected areas in the Hauraki Gulf (which supports a population of 'Nationally Critical' Bryde's whales and 'Nationally Endangered'[5] bottlenose dolphins) and off the southeast coast of the South Island (home to Hector's dolphins and seasonally visited by southern right whales).

The Government of New Zealand is reviewing its marine protection legislation, with a view to ensuring that appropriate spatial tools exist to manage New Zealand's coastal marine area to achieve better balance between use and protection, while recognising important cultural factors such as enjoyment of the marine environment. Alongside this legislation reform, the Government continues to investigate creation of the 620,000 km^2 Kermadec Ocean Sanctuary, a globally significant proposal due to the region's significant and varied biodiversity and geology.

2. Information on whale watching operations

The *Marine Mammals Protection Regulations 1992* are the primary tool for managing whale and dolphin watching operations. Permits for commercial whale watching operations are required under the *Regulations* and substantial effort has been put in over the years to research potential effects of these activities on marine mammals. The Department of Conservation continues to support research activities investigating the effects of tourism activities on cetaceans and uses permitting processes to reduce effects where applicable.

3. Current Government programs related to cetacean conservation

The New Zealand Government and other New Zealand organisations fund a range of research projects aimed at determining the population numbers and trend, effects of anthropogenic activities, and important habitat areas for a number of species of whales and small cetaceans (see Table 1).

4. Current threats to cetacean conservation and management measures taken/proposed

Hector's and Māui dolphins

In 2008, the Department of Conservation and Ministry for Primary Industries put in place a Hector's and Māui dolphin Threat Management Plan (TMP) that identifies human-induced

[4] These were established around the Antipodes, Bounty, and Campbell Islands.

threats to Hector's and Māui dolphin populations and outlines strategies to mitigate those threats.[5] This plan provides a platform in which to guide research, engagement, management and review processes.

Protection for the endemic Hector's and Māui dolphins from fishing-related threats is primarily provided by regulations issued under the *Fisheries Act 1996*. Observer- or camera-based monitoring coverage in NZ fisheries varies between fisheries and incidental capture of marine mammals in fishing operations must be reported. These regulations restrict or prohibit the use of set nets (gill nets) or trawl nets in areas where the dolphins are most commonly found, including the west coast of the North Island, areas of the South, East, North and West coasts of the South Island. There are a total of 31,500 km^2 closed to set net fishing and 12,825 km^2 closed or subject to restrictions for trawl fishing.

The New Zealand Government has established five sanctuaries to protect these dolphins within New Zealand waters covering 37,286 km^2. These sanctuaries prohibit seismic surveying and seabed mining, with limited exceptions.

Population outcomes have been established for the two sub-species:

> *Māui dolphins: Human impacts are managed to allow the population to increase to a level at or above 95 percent of the maximum number of dolphins the environment can support.*
>
> *Hector's dolphins: Human impacts are managed to allow the population to increase to a level at or above 90 percent of the maximum number of dolphins the environment can support.*

These outcomes are underpinned by a set of medium-term goals and management objectives for fisheries, the disease toxoplasmosis, and other human-induced non-fishing threats. Research objectives have been defined to help ensure the actions implemented are appropriate and lead to the ability of subpopulations to recover and remain at the desired population levels.

Bryde's whales

In 2013, the shipping industry in the Hauraki Gulf adopted the 'Hauraki Gulf Transit Protocol for Commercial Shipping' to mitigate ship-strike risk to Bryde's whales. This includes voyage planning to allow a voluntary 10 knot speed limit, keeping watch and reporting whale sightings within the main area of ship-strike risk for Bryde's whales. There are currently no dedicated shipping lanes in the Gulf and given the broad distribution of whales throughout the region, they are unlikely to reduce the mortality risk to the whales. Transit speeds in the Hauraki Gulf have decreased significantly since implementation of the protocol and only one ship strike is known to have occurred since it was implemented, compared with a prior average of 2 per year. The Department of Conservation will continue to support necropsies of whales where ship-strike is suspected and ensure the reporting of ship-strike mortality to the IWC database.

[5] The long-term goal of the TMP is: Hector's and Māui dolphins are thriving or increasing, supported by an enduring, cohesive and effective threat management programme across New Zealand.

Bottlenose dolphins

In 2021, the New Zealand Government declared a marine mammal sanctuary at Te Pēwhairangi (Bay of Islands) due to concerns about the effects of intensive vessel traffic on a declining number of bottlenose dolphins using the area. Within the sanctuary, swimming with marine mammals is prohibited, vessels must adhere to speed restrictions in 'safe zones' and must not approach marine mammals. The sanctuary is in addition to restrictions previously placed on permitted tourism operators in order to reduce pressure on the dolphins.

5. Reporting systems for cetacean injuries/mortality/strandings

New Zealand has a variety of ways to report injury, mortality, or strandings of cetaceans, all of which direct the report to the New Zealand Department of Conservation as the agency responsible for responding to such incidents. There is a national phone hotline, email addresses, smartphone apps, and other reporting mechanisms. The Department of Conservation oversees the incident response, with the assistance of iwi representatives (local Maori with traditional authority over the area of the incident), environmental groups (e.g. stranding response organisations), and other relevant local personnel. All reporting is centralised to national marine mammal incident databases.

6. International Affiliations and Cooperation

New Zealand is party to a number of multilateral agreements related to cetaceans (in addition to the International Convention for the Regulation of Whaling) including the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Convention on Migratory Species (CMS), as well as agreements affecting cetacean ecosystems, such as the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). New Zealand is also a signatory to the Memorandum of Understanding on the Conservation of Cetaceans and their Habitats in the Pacific Islands Region, developed under the auspices of the Convention on Migratory Species, and continues to provide information to Pacific Island nations about spatial use by humpback whales in support of the Pacific Oceans Ecosystem Analysis (PACIOCEA) and Rapid Biological Assessment (BIORAP) projects sponsored by the Secretariat of the Pacific Regional Environment Programme (SPREP).

Table 1: Current New Zealand Government Funded Research Projects Related to Cetacean Conservation

Whale species	Research focus
Humpback Whales	Photo ID and biopsy sampling of southbound migrating whales off Fiordland (DOC and Auckland University)
Blue Whales/Pygmy Blue Whales	Blue whale habitat use in the South Taranaki Bight, including predictive modelling of whale presence (Oregon State University and DOC)
Bryde's Whales	Investigation into ship-strike risk of Bryde's whales in the Hauraki Gulf (Auckland University and DOC)
Southern Right Whales	New Zealand southern right whale demographics and habitat use (Auckland University in association with DOC and various other partners) Opportunistic sightings and collection of genetic samples around New Zealand coastline (DOC)
Inshore dolphins	Life history and population dynamics of Hector's and Māui dolphins (DOC, Auckland University, Oregon State University, Otago University) Regional boat surveys for Māui dolphins in the Taranaki region (DOC) Observer programme onboard inshore gill-net and trawl vessels to assess by-catch and distribution of Hector's and Māui dolphins (MPI and DOC) Toxicology and disease in Hector's and Maui dolphins, including efforts to understand and mitigate the threat of *Toxoplasma gondii* (DOC, Massey University) Habitat use, behaviour, and diet of Hector's and Māui dolphins (DOC, Auckland University) Necropsies of beach-cast common, dusky, and Hector's and Māui dolphins to assess cause of death (DOC and Massey University) Population abundance of Māui dolphin using genetic mark-recapture and photo ID techniques (Auckland University, Oregon State University, and DOC) Ongoing monitoring of the bottlenose dolphin populations of Fiordland (DOC and Otago University) Investigation of tourism effects on bottlenose dolphins in the Bay of Islands (Massey University and DOC)