

Voluntary National Cetacean Conservation Report 2016

IWC/66/CC26

CC Agenda item 12.1

**Submitted by the Government of New Zealand to the Conservation Committee
66th Meeting of the International Whaling Commission
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1. Legal and other 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 that any seismic survey in the New Zealand Exclusive Economic Zone (EEZ) must comply with the Department of Conservation code of conduct for seismic surveying.²)

The New Zealand Government has established five marine mammal sanctuaries around the coasts of New Zealand³. The relevant legislative instruments establishing these sanctuaries restrict seismic surveys in the whole of the sanctuaries (and mining in part of the West Coast North Island Sanctuary) to increase protection for Hector's and Māui dolphins. Protection 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.

In 2014, the Government of New Zealand established three new marine reserves in the sub-Antarctic islands⁴ (which encompass the breeding grounds of New Zealand southern right whales and expand the proportion of New Zealand territorial sea under protection to 9.5%) and a marine reserve in Akaroa Harbour (which sits at the heart of Hector's dolphin habitat around Banks Peninsula).

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 mitigation actions and reporting requirements.

³ These were established in 2008 and include: Te Waewae Bay, Catlins Coast, Clifford and Cloudy Bay, and West Coast North Island sanctuaries. The legislative instruments which achieved the above include the: The Marine Mammals Protection (Te Waewae Bay Sanctuary) Notice 2008; The Marine Mammals Protection (Catlins Coast Sanctuary) Notice 2008; The Marine Mammals Protection (Clifford & Cloudy Bay Sanctuary) Notice 2008; The Marine Mammals Protection (West Coast North Island Sanctuary) Notice 2008; and The Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008.

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

In 2013, in response to the ship-strike risk to Bryde's whales in the Hauraki Gulf, the shipping industry adopted the 'Hauraki Gulf Transit Protocol for Commercial Shipping'. 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. Transit speeds in the Hauraki Gulf have decreased significantly and only one ship strike is known to have occurred since the protocol was implemented, compared with a prior average of 2 per year.

In 2014, New Zealand implemented a package of protection measures for the Kaikoura area, including a marine reserve, whale and fur seal sanctuaries, customary management areas, and revised fishing limits. These measures are designed to contribute to the goal of establishing a comprehensive network of MPAs throughout New Zealand's marine environment and ensure the long-term viability and conservation of NZ's premier ecotourism destination.

The Government of New Zealand is currently undertaking a reform of our 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 has proposed the creation of the 620,000 km² Kermadec Ocean Sanctuary, a globally significant proposal due to the region's significant and varied biodiversity and geology.

2. 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, migratory pathways, and important habitat areas for a number of species of whales and small cetaceans (see Table 1). This includes, for instance, the IWC Southern Ocean Research Programme (IWC-SORP) project, which directly addresses the research objectives of distribution, relative abundance, migration patterns and foraging ecology of three ecotypes of killer whales in the Southern Ocean.

3. 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 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.

⁵ The goals of the TMP are: to ensure that the long-term viability of Hector's and Māui dolphins is not threatened by human activities; and to further reduce impacts of human activities as far as possible, taking into account advances in technology and knowledge, and financial, social and cultural implications.

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 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 and West coasts of the South Island.

The New Zealand Government has established five Marine Mammal Sanctuaries within New Zealand waters covering over 1000 km of coastline. A study of the oldest of these Sanctuaries – the Banks Peninsula Sanctuary, within which the use of gillnets has been restricted since 1988 – found a significant (5.4%) increase in Hector's dolphin survival in the area which reduced the decline of this population significantly.⁶

In 2013, the New Zealand Government announced additional measures to reduce human-induced threats to Māui dolphins off the West Coast of the North Island, such as the retention of existing set (gill) net and trawl restrictions and an extension of the set net fishing prohibition out to seven nautical miles offshore in North Taranaki. These measures balance a range of considerations, including the science available, public submissions, and economic impacts.

There are also monitoring programmes in place to reduce uncertainty and improve information on dolphin interactions with fishing activity. There is mandatory observer coverage on all commercial set net vessels that operate between two and seven nautical miles in the Taranaki region. Observer coverage has been increased annually in the trawl fishery off the West Coast of the North Island, focusing on the offshore area between two and seven nautical miles.

The New Zealand Government has formed a strategic, collaborative advisory group for engaging interested parties in prioritisation and funding of future conservation research on the Māui dolphin (the Māui dolphin Research Advisory Group). The group is facilitated by an independent chairperson and includes representatives from central government agencies, iwi⁷, regional councils, the fishing industry, the petroleum and mineral industry, environmental organisations, research providers, and international organisations. Meetings began in 2014 and the group agreed to the development of a five-year research plan for the Māui dolphin which would allow for a transparent, structured, and strategic planning approach to Māui dolphin research. The Government will consider the information outputs from the group as they become available to assess whether the existing measures are effective, or if a review of the protection measures in place for the Māui dolphin should be brought forward from 2018.

Bryde's whales

⁶ Gormley et al. 2012. First evidence that marine protected areas can work for marine mammals. *J. Applied Ecology* 49:474-480.

⁷ An 'iwi' is a Māori tribe.

A working group was convened in 2012 in response to the ship-strike risk to Bryde's whales in the Hauraki Gulf.⁸ 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.⁹ 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. As an outreach and education tool for mariners, ships transiting through the Gulf in January - February 2013 and 2014 received report cards produced by SBNMS-NOAA. No ship-strikes have been reported (including from beach cast animals) in the last two years, suggesting that the voluntary protocol has been successful. The Department of Conservation will continue to support necropsies on whales where ship-strike is suspected and ensures the reporting of ship-strike mortality to the IWC database.

4. Information on whale watching operations

The Marine Mammals Protection Regulations 1992 are the primary tool for managing whale and dolphin watching operations. New Zealand supports the Conservation Committee's Strategic Plan for Whale Watching. The Department of Conservation continues to support research activities investigating the effects of tourism activities on cetaceans.

5. 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). 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 | Survey of northbound migration through Cook Strait including genetic analysis (Department of Conservation - DOC) Investigation of links between breeding and feeding areas via satellite tagging of southbound migrating whales at the Kermadec Islands (Auckland University, DOC, and the Ministry for Primary Industries – MPI) |

⁸ This group comprises representatives from local and regional government, shipping industry, the ports authority, NGOs, scientists and indigenous people.

⁹ 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.

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| Blue Whales/Pygmy Blue Whales | Blue whale habitat use in the South Taranaki Bight, including photo ID, tissue sampling, and environmental sampling (Oregon State University and DOC) |
| Bryde's Whales | Investigation into the abundance, distribution, sub-surface behaviour, and ship-strike risk of Bryde's whales in the Hauraki Gulf (Auckland University and DOC) |
| Southern Right Whales | <p>Measuring nutritional condition of right whales using remotely-piloted multi-rotor aircraft (University of Otago and the New Zealand Antarctic Research Institute – NZARI)</p> <p>Opportunistic sightings and collection of genetic samples around New Zealand coastline to determine if individuals seen around the main two islands of New Zealand are genetically or geographically isolated from sub-Antarctic populations (DOC)</p> <p>Genetic analysis of archived right whale tissue (Auckland University and Oregon State University, in association with DOC)</p> |
| Killer Whales | Investigation of the abundance, foraging ecology, habitat use and diet of killer whales in the Ross Sea, Antarctica (Canterbury University, NZARI, and MPI). |
| General cetacean research | Acoustic monitoring of cetaceans in and around Cook Strait via moored hydrophone systems (National Institute of Water and Atmospheric Research and DOC). |
| Inshore dolphins | <p>Aerial abundance and distribution surveys of Hector's and Māui dolphins (DOC and MPI)</p> <p>Regional boat surveys for Māui dolphins in the Taranaki region (DOC)</p> <p>Observer programme onboard inshore gill-net and trawl vessels to assess by-catch and distribution of Hector's and Māui dolphins (MPI and DOC)</p> <p>Ongoing monitoring of the bottlenose dolphin populations of Fiordland (DOC and Otago University)</p> <p>Necropsies of beach-cast common, dusky, and Hector's and Māui dolphins to assess cause of death (DOC and Massey University)</p> <p>Population abundance of Māui dolphin using genetic mark-recapture technique (Auckland University, Oregon State University, and DOC)</p> <p>Habitat use monitoring of bottlenose dolphins in the Bay of Islands (Auckland University and DOC)</p> <p>Investigation of tourism effects on common and bottlenose dolphins in the Bay of Plenty (Massey University and DOC)</p> <p>Investigation of tourism effects on bottlenose dolphins in the Bay of Islands (Massey University and DOC)</p> |