

Version  
as at 28 October 2021



## Sugar Loaf Islands Marine Protected Area Act 1991

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Department of Conservation.**

**An Act to provide for the setting up and management of the Sugar Loaf Islands Marine Protected Area for the purpose of protecting that area of the sea and foreshore in its natural state as the habitat of marine life, and to provide for the enhancement of recreational activities**

**1 Short Title**

This Act may be cited as the Sugar Loaf Islands Marine Protected Area Act 1991.

**2 Interpretation**

In this Act, unless the context otherwise requires,—

**Director-General** means the Director-General of Conservation

**marine life** means any species of the plant or animal kingdoms which at any time of the life of the species inhabits the sea or foreshore; and includes any specimen of the species whether alive or dead, and any part of any specimen, and the seed, spores, eggs, spawn, young, fry, and offspring of the species; but does not include wildlife within the meaning of the Wildlife Act 1953

**mining** means any mining or prospecting that may be carried on under a mining right

**mining right** means—

- (a) a coal mining right within the meaning of the Coal Mines Act 1979;
- (b) a mining licence or a prospecting licence granted under the Petroleum Act 1937;
- (c) any authority to prospect or mine for ironsands granted by the Minister of Energy pursuant to section 3 of the Iron and Steel Industry Act 1959, and any authority to enter on land given by him or her pursuant to section 6 of that Act, and any right to prospect or mine for ironsands which by virtue of section 5 of that Act may continue to be exercised as if the said section 3 had not been passed;
- (d) a mining privilege within the meaning of the Mining Act 1971;
- (e) any licence issued under section 5 of the Continental Shelf Act 1964 to prospect or mine for any mineral, or carry on any operations for the recovery of any mineral;
- (f) any right to prospect or mine for minerals conferred by any other enactment or by any instrument

**Minister** means the Minister of Conservation

**petroleum mining exclusion area** means all the land and water bounded by a line commencing at 39°03'36.0"S and 174°01'24.6"E to a point 39°02'51.77"S and 174°01'51.71"E; then along a line from the navigation light on the lee breakwater of Port Taranaki at 39°03'24.15"S and 174°02'39.98"E to the break-

water; then in a westerly and south-westerly direction along the line of mean high water mark to the point of commencement; and includes all seabed and subsoil below those waters that extends down to the bedrock or 10 metres below the surface of the seabed, whichever distance is the greater

**Protected Area** means all the land and water bounded by a line commencing at the mean high water mark drawn from a point 39°04'19.75"S and 174°01'10.85"E; then in a westerly direction to a point 39°03'56.37"S and 173°59'57.10"E; then along the line of an arc of 900 metres radius from a point 39°03'29.34"S and 174°00'11.21"E on Waikaranga (Seal Rock) to a point 39°03'10.69"S and 173°59'42.41"E; then in a line to a point 39°02'31.90"S and 174°00'23.72"E; then along the line of an arc of 900 metres radius from a point 39°02'50.54"S and 174°00'52.51"E on Motumahanga (Saddleback Island) to a point 39°02'28.42"S and 174°01'16.93"E; then along the line from the navigation light on the lee breakwater of Port Taranaki at 39°03'24.15"S and 174°02'39.98"E to a point at 39°02'51.77"S and 174°01'51.71"E; then to a point 39°03'36.0"S and 174°01'24.6"E; then in a westerly and south-westerly direction along the line of mean high water mark to the point of commencement; and includes all seabed and subsoil below those waters that extends down to the bedrock or 10 metres below the surface of the seabed, whichever distance is the greater.

### **3 Purpose of Act**

The purpose of this Act is to ensure that the scenery, natural features, and ecosystems of the Protected Area that should be protected and conserved by reason of their distinctive quality, beauty, typicality, or uniqueness are conserved.

### **4 Principles**

The Protected Area shall be administered and maintained so as to ensure that, so far as is practicable,—

- (a) the area, and its scenery, natural features, and ecosystems are protected and conserved in their natural state:
- (b) the value the area has in providing natural habitats is maintained:
- (c) members of the public have access to the area for recreational purposes and for the purpose of studying, observing, and recording any marine life in its natural habitat:
- (d) the provisions of any relevant management plan for the time being in force under the Fisheries Act 1983 or the Conservation Act 1987 are complied with.

### **5 Prohibition on mining**

- (1) No person shall carry on mining in the Protected Area or be granted a mining right in respect of that area.

- (2) No person shall carry on mining operations within the meaning of the Petroleum Act 1937 in the petroleum mining exclusion area or be granted the right to carry on such operations in that area.

- (3) *[Repealed]*

Section 5(3): repealed, on 23 July 1993, by section 2 of the Sugar Loaf Islands Marine Protected Area Amendment Act 1993 (1993 No 80).

## **6 Effect of Act on Fisheries Act 1983**

Nothing in this Act shall limit or affect the provisions of the Fisheries Act 1983 or any regulations made under that Act.

### **6A Consents relating to New Plymouth Power Station**

Nothing in this Act shall limit or affect—

- (a) any water right granted before or after the commencement of this Act; or
- (b) any coastal permit granted after the commencement of the Resource Management Act 1991—

in respect of the New Plymouth Power Station.

Section 6A: inserted, on 23 July 1993, by section 3 of the Sugar Loaf Islands Marine Protected Area Amendment Act 1993 (1993 No 80).

## **7 Protected Area to be conservation area**

- (1) The Protected Area is hereby deemed to be a conservation area under the Conservation Act 1987.
- (2) Moturoa Island, Motumahanga (Saddleback Island), Waikaranga (Seal Rocks), and Whareumu (Lion Rock) are hereby deemed to be sanctuary areas under the Conservation Act 1987; and each of those sanctuary areas shall be deemed to extend to the mean low water mark.
- (3) The remainder of the Protected Area (being the parts not referred to in subsection (2)) is hereby deemed to be a conservation park under the Conservation Act 1987.
- (4) No person shall enter any such sanctuary area except pursuant to a permit issued by the Director-General; and the Director-General may issue a permit subject to such conditions as he or she thinks fit.
- (5) The provisions of the Conservation Act 1987 shall, with any necessary modifications, apply to the Protected Area accordingly.
- (6) The wildlife refuges declared in respect of Moturoa Island and Motumahanga (Saddleback Island) under section 14 of the Wildlife Act 1953 are hereby revoked.

Section 7(2): amended, on 25 February 2012, by section 4 of the Sugar Loaf Islands Marine Protected Area Amendment Act 2012 (2012 No 19).

## 8 Protected Area may be marked

- (1) Subject to subsection (2), the Director-General may cause the boundaries of the Protected Area to be marked by beacons, lights, buoys, or other marks.
- (2) The Director-General shall not cause the boundaries of the area to be so marked without the approval of the Minister of Transport.

## 9 Rights of access and navigation

- (1) For the purposes of this Act, every person shall have free ingress, passage, and egress, into, through, and out of the Protected Area, by land or water, and with vessels or otherwise.
- (2) No person shall anchor in the Protected Area, except—
  - (a) for recreational purposes only; or
  - (b) pursuant to an authorisation given in writing by the Director-General; or
  - (c) where it is necessitated by stress or emergency.
- (3) Where a vessel anchors in the Protected Area in circumstances of stress or emergency, any person may take such measures as may be reasonably necessary to avoid the loss of or injury to human life or property.
- (4) The Director-General may declare anchoring to be prohibited in any specified waters of the Protected Area; and, in that case, no vessel shall anchor in those waters except in the circumstances specified in subsection (2)(c).
- (5) A declaration under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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### Legislation Act 2019 requirements for secondary legislation made under this section

<b>Publication</b>	The maker must publish it in the <i>Gazette</i>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 9(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 9(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

## 10 Offences

- (1) Every person commits an offence who—
  - (a) carries on mining in the Protected Area; or
  - (b) carries on mining operations within the meaning of the Petroleum Act 1937 in the petroleum mining exclusion area; or
  - (c) anchors in the Protected Area in contravention of section 9.

- (2) Every person who commits an offence against subsection (1) is liable on conviction,—
- (a) in the case of a natural person, to imprisonment for a term not exceeding 1 year, or to a fine not exceeding \$10,000;
- (b) in the case of a body corporate, to a fine not exceeding \$80,000.

Section 10(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

#### **10A Control of dogs**

- (1) Nothing in this Act derogates from the provisions of Part 5C of the Conservation Act 1987, which provides for the control of dogs and which, subject to section 26ZT(d) of that Act, authorises the declaration as either a controlled dog area or an open dog area of any part or parts of any land managed and administered under this Act by the Minister or the Department of Conservation.
- (2) Section 26ZT(d) of the Conservation Act 1987 provides that an open dog area may not include any part of the Protected Area.

Section 10A: inserted, on 2 May 1996, by section 11 of the Conservation Amendment Act (No 2) 1996 (1996 No 14).

#### **11 Transitional provisions relating to existing petroleum prospecting licence**

- (1) Notwithstanding anything in this Act or any other Act, but subject to subsection (2), petroleum prospecting licence 38437 shall continue in force according to its tenor and the Petroleum Act 1937 shall apply in relation to that prospecting licence as if section 5 had not been enacted.
- (2) Subject to subsection (3), in addition to complying with the provisions of the Petroleum Act 1937, the holder of petroleum prospecting licence 38437 shall also obtain the approval of the Minister to any specific programme of work proposed to be carried out under that licence or any mining licence granted to the holder in accordance with section 11 of the Petroleum Act 1937 if such work is reasonably likely to affect the petroleum mining exclusion area or the Protected Area.
- (3) Nothing in subsection (2) applies to any work that the holder proposes to carry out under petroleum prospecting licence 38437, if the work was approved by the Minister before the commencement of this Act or an application for approval of the work was received by the Minister before that date.

#### **12 Consequential amendment to Conservation Act 1987**

*Amendment(s) incorporated in the Act(s).*

## Notes

### **1** *General*

This is a consolidation of the Sugar Loaf Islands Marine Protected Area Act 1991 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

### **2** *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

### **3** *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

### **4** *Amendments incorporated in this consolidation*

Secondary Legislation Act 2021 (2021 No 7): section 3

Sugar Loaf Islands Marine Protected Area Amendment Act 2012 (2012 No 19)

Criminal Procedure Act 2011 (2011 No 81): section 413

Conservation Amendment Act (No 2) 1996 (1996 No 14): section 11

Sugar Loaf Islands Marine Protected Areas Amendment Act 1993 (1993 No 80)