

Reprint
as at 5 November 2020



Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1988

(SR 1988/333)

Pursuant to section 22 of the Marine Mammals Protection Act 1978, the Minister of Conservation hereby gives the following notice; and the Minister of Energy, the Minister of Fisheries, and the Minister of Transport hereby notify their respective consents to the declaration contained in clause 3(2).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This notice is administered by the Department of Conservation.

Notice

1 Title and commencement

- (1) This notice may be cited as the Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1988.
- (2) This notice shall come into force on the day after the date of its notification in the *Gazette*.

2 Interpretation

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

existing permit—

- (a) means a mining permit, an exploration permit, or a prospecting permit that has been granted and has not expired or been surrendered or revoked on the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force; and
- (b) includes—
 - (i) an extension of land granted to the area of an existing permit, an existing privilege, or a subsequent permit under the applicable mining legislation after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force; and
 - (ii) an authorisation granted under applicable mining legislation that allows seismic surveying outside the area of an existing permit, an existing privilege, or a subsequent permit after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force

existing privilege has the meaning given by section 2(1) of the Crown Minerals Act 1991

exploration permit has the meaning given by section 2(1) of the Crown Minerals Act 1991

hazard assessment means—

- (a) an assessment of faults following a major seismic event; or
- (b) an assessment of the likelihood of, or for the purpose of mitigating the potential effects of, an anticipated natural hazard or a maritime accident, incident, or mishap

internal waters has the meaning given by section 4 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

mining has the meaning given by section 2(1) of the Crown Minerals Act 1991

mining permit has the meaning given by section 2(1) of the Crown Minerals Act 1991

petroleum has the meaning given by section 2(1) of the Crown Minerals Act 1991

prospecting permit has the meaning given by section 2(1) of the Crown Minerals Act 1991

sanctuary means the place declared by clause 3(2) to be a marine mammal sanctuary

seabed mining—

- (a) means mining in the seabed; but
- (b) excludes mining for petroleum

seismic survey means a survey of the geology of the seabed, the structures beneath it, or both, carried out by projecting pressure waves into the layers beneath the seabed, and detecting and measuring the reflected signals

subsequent permit—

- (a) has the meaning given by section 2(1) of the Crown Minerals Act 1991; and
- (b) includes subsequent permits granted after the date on which the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 comes into force.

- (2) All co-ordinates stated in this notice are expressed in accordance with the World Geodetic System (WGS 84).

Clause 2: substituted, on 23 October 2008, by clause 4 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008 (SR 2008/332).

Clause 2(1) **acoustic seismic survey**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **acoustic source**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **activate**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **cetacean**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **during poor visibility**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **existing permit**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **existing privilege**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **exploration permit**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **explosion**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **flounder area**: revoked, on 7 November 2008, by clause 4 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

Clause 2(1) **flounder net**: revoked, on 7 November 2008, by clause 4 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

Clause 2(1) **hazard assessment**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **low-water line**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **mining**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **mining permit**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **mitigating acoustic device**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **passive acoustic monitoring**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **petroleum**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **prospecting permit**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **qualified observer**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **seabed mining**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **set net**: revoked, on 7 November 2008, by clause 4 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

Clause 2(1) **soft start**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **source of acoustic pressure waves**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **source vessel**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **source vessel observer**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **subsequent permit**: inserted, on 5 November 2020, by clause 4(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 2(1) **territorial sea**: revoked, on 5 November 2020, by clause 4(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

3 Definition and declaration of marine mammal sanctuary

- (1) All the place described in Schedule 1 is defined for the purposes of subclause (2), other than—
 - (a) the Akaroa Marine Reserve created by the Marine Reserve (Akaroa) Order 2014; and
 - (b) the Pohatu Marine Reserve created by the Marine Reserve (Pohatu) Order 1999.
- (2) The sanctuary is hereby declared to be a marine mammal sanctuary, to be called the Banks Peninsula Marine Mammal Sanctuary.

- (3) A map of the sanctuary is set out in Schedule 1A.
- (4) The map set out in Schedule 1A is indicative only, and if there is a conflict between it (or the map of the sanctuary available for inspection on the Internet site of the Department of Conservation) and the verbal description in Schedule 1, the verbal description prevails.

Clause 3(1): replaced, on 5 November 2020, by clause 5 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Clause 3(2): amended, on 23 October 2008, by clause 5(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008 (SR 2008/332).

Clause 3(3): added, on 23 October 2008, by clause 5(3) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008 (SR 2008/332).

Clause 3(4): added, on 23 October 2008, by clause 5(3) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008 (SR 2008/332).

4 Prohibited activities

[Revoked]

Clause 4: revoked, on 7 November 2008, by clause 5(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

5 Permitted activities

[Revoked]

Clause 5: revoked, on 7 November 2008, by clause 5(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

6 Restrictions on use of set nets

[Revoked]

Clause 6: revoked, on 7 November 2008, by clause 5(1) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

7 Restrictions on seismic surveying

- (1) A person must not carry out a seismic survey from a vessel in the sanctuary created by clause 3(1) unless the seismic survey is undertaken in accordance with one of the following exemptions:
 - (a) under an existing permit, an existing privilege, or a subsequent permit:
 - (b) for decommissioning of mining infrastructure even where there is no existing permit, existing privilege, or subsequent permit in force:
 - (c) for an urgent hazard assessment:
 - (d) for Level 3 surveys as defined in the *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations*:
 - (e) pursuant to an approval by the Minister of Conservation and the Minister of Energy and Resources for an activity—
 - (i) that is nationally significant; and

- (ii) that has a purpose that cannot be achieved if the activity is conducted outside the sanctuary area.
- (2) A seismic survey authorised by a permit under the Crown Minerals Act 1991 that does not qualify for an exemption under subclause (1)(a) is not eligible for an approval by the Ministers under subclause (1)(e).
- (3) A seismic survey that is exempt from the prohibition must comply with the *2013 Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations* when undertaking seismic surveying within the sanctuary.
- (4) Surveyors undertaking a Level 3 survey under subclause (1)(d) must provide the Director-General of Conservation with the following information within 30 days of completing the survey:
 - (a) the date and time of the survey commencement and of its completion:
 - (b) the type of sound source used:
 - (c) the geographic area surveyed.

Clause 7: replaced, on 5 November 2020, by clause 6 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

8 Restriction on seabed mining

A person must not carry out seabed mining in the sanctuary created by clause 3(1) unless the seabed mining is undertaken under an existing permit, an existing privilege, or a subsequent permit.

Clause 8: inserted, on 5 November 2020, by clause 6 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

Schedule 1

Banks Peninsula Marine Mammal Sanctuary

cl 3(1)

Schedule 1: replaced, on 5 November 2020, by clause 7 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).

All the areas of the sea enclosed by a line—

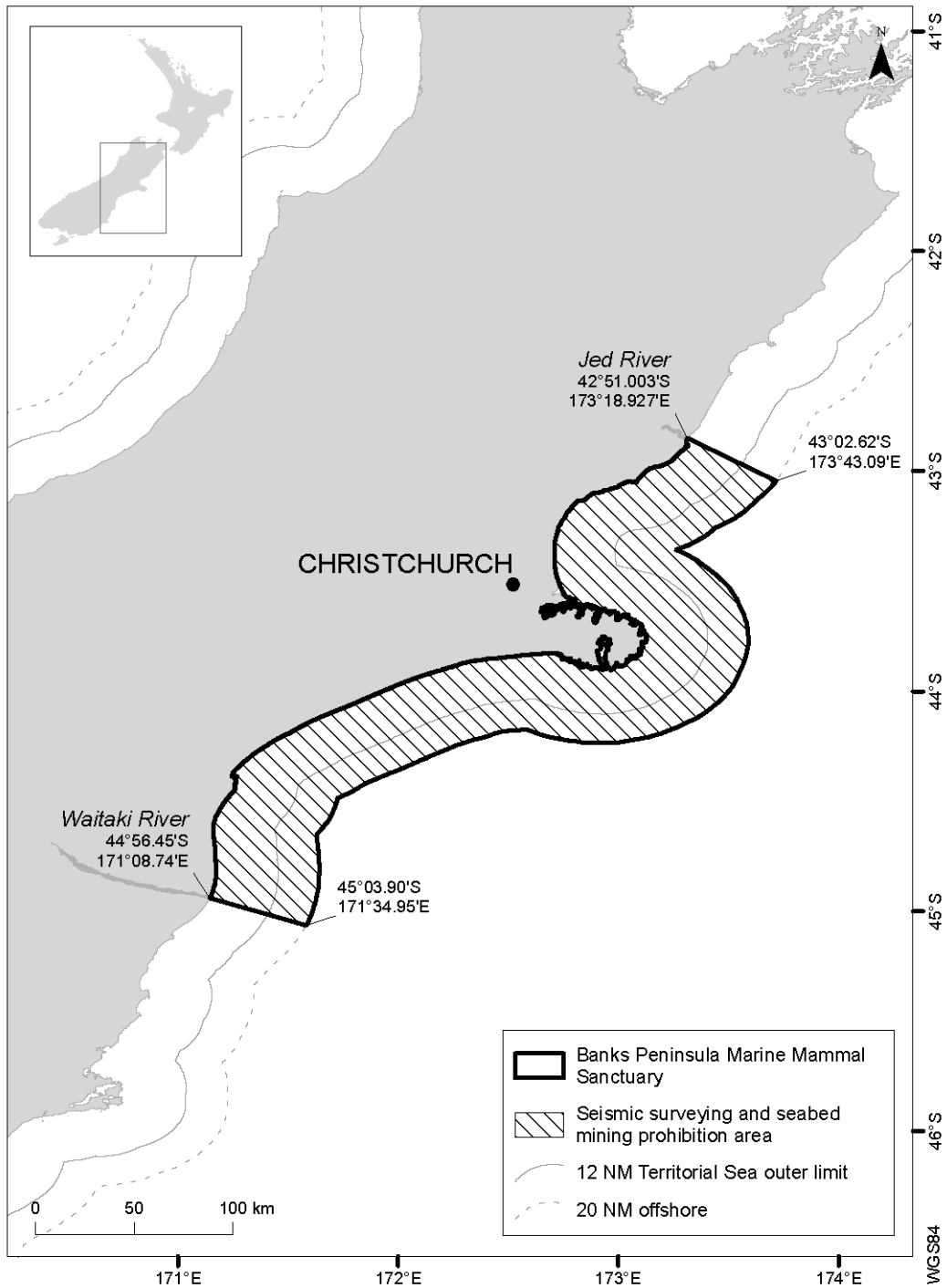
- (a) commencing at a point at the mouth of the Waitaki River (approximately 44°56.45'S and 171°08.74'E); then
- (b) proceeding in a north and north-easterly direction along the line of mean high-water springs to a point on that line near the mouth of the Jed River (approximately 42°51.003'S and 173°18.927'E), being the south-western corner of the Te Rohe o Te Whānau Puha Whale Sanctuary); then
- (c) proceeding in a south-easterly direction along the south-western boundary of the Te Rohe o Te Whānau Puha Whale Sanctuary to a point on that boundary (approximately 43°02.62'S and 173°43.09'E); then
- (d) proceeding in a southerly direction along a line 20 nautical miles distant from the previously mentioned western boundary to a point on that line (approximately 45°03.90'S and 171°34.95'E); then
- (e) proceeding in a straight line in a north-westerly direction to the point of commencement,—

including all the areas of the sea contained in the internal waters (other than lagoons and Lake Ellesmere) within the north-south extent of the sanctuary between a point near the mouth of the Jed River (approximately 42°51.003'S and 173°18.927'E), and a point at the mouth of the Waitaki River (approximately 44°56.45'S and 171°08.74'E).

Schedule 1A Map of sanctuary

cl 3(3)

Schedule 1A: replaced, on 5 November 2020, by clause 8 of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271).



Schedule 2
Flounder area

[Revoked]

cl 4(1)

Schedule 2: revoked, on 7 November 2008, by clause 5(2) of the Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429).

Dated at Wellington this 19th day of December 1988.

Helen Clark, Minister of Conservation.
David Butcher, Minister of Energy.
Colin Moyle, Minister of Fisheries.
W P Jeffries, Minister of Transport.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 21 December 1988.

Reprints notes

1 *General*

This is a reprint of the Marine Mammals Protection (Banks Peninsula Sanctuary) Notice 1988 that incorporates all the amendments to that notice as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2020 (LI 2020/271)

Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice (No 2) 2008 (SR 2008/429)

Marine Mammals Protection (Banks Peninsula Sanctuary) Amendment Notice 2008 (SR 2008/332)