



**To:** Kevin O'Connor Deputy Director-General Biodiversity  
**CC:** Jack Mace Director Operations Kapiti/Wellington  
**From:** Elizabeth Heeg Director Aquatic

**Priority:** HIGH

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**Subject:** Plimmerton orca stranding response

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### **Purpose – Te aronga**

To seek your review and approval of our recommendations for the management response to the Plimmerton orca stranding incident.

### **Decision Sought**

Agree that due to the decreasing likelihood over time of successful reunification of the calf with its pod, the appropriate approach for the welfare of the calf is to euthanise it as soon as possible in order to fulfil the requirements of sections 10 and 11 of the Animal Welfare Act 1999. Euthanasia can be performed pursuant to section 18(1)(c) of the Marine Mammals Protection Act 1978.

### **Timeframe**

A decision is required by the end of Friday – 23 July 2021.

This deadline is necessary to ensure that the animal welfare concerns for the calf are not further exacerbated and to allow time to implement the decision, allowing for security requirements.

### **Background and Context – Te horopaki**

Last Sunday (11 July), the orca calf was stranded on rocks near Plimmerton, north of Wellington. An ongoing operation to care for the orca calf at the Plimmerton boating club is being led by DOC with support from Orca Research Trust/WhaleRescue.org (both led by Dr Ingrid Visser), local iwi Ngāti Toa Rangatira, veterinarians from Wellington Zoo and HUHA, and the local community.

DOC's Aquatic Unit's original advice was that due to the young age of this animal and the fact that it was unweaned, there was very low likelihood of success of any management response other than quickly reuniting it with its mother. There is no example in the world of an unweaned calf being held in human care and then successfully reintegrated into a wild pod. Holding the calf for an extended time creates concerns around habituation to humans, particularly if high levels of human interaction are taking place. Therefore, DOC's original advice was that human interactions should be kept to a minimum and if the mother could not be located quickly, the best approach for the welfare of the calf was to euthanise it.

Due to circumstances at the time and the involvement of the Orca Research Trust/ WhaleRescue.org and members of the public, the decision was taken to focus efforts on keeping the calf medically stable while searching extensively for orca along the nearby coast, with the option of euthanasia in reserve if the orca was deteriorating or long-term care was deemed impractical. DOC was unable to take control as quickly as the Orca Research Trust/ WhaleRescue.org and members of the public due to health and safety concerns and the need to establish the CIMS response team.

Since 12 July, the orca has been cared for in a temporary sea pen at the Plimmerton boating club and was moved to an onsite temporary pool (Warehouse swimming pool) on Thursday 15 July due to an incoming storm. The orca was in the pool until 22 July, when it was moved back to the sea pen. The orca has been cared for onsite by the Orca Research Trust/WhaleRescue.org and the HUHA veterinary team under supervision from DOC and Wellington Zoo veterinarians. National and international experts (Sea World, IFAW, Loro Parque) have been called on for advice throughout the operation.

On site care has involved a large number of Orca Research Trust/WhaleRescue.org and HUHA staff and volunteers, including local iwi members (Ngāti Toa Rangatira). Dr Visser and DOC agreed verbally that has the legislative mandate under the Marine Mammals Protection Act, and we will work in partnership. Despite restricting public access when the orca was moved to the pool, the number of people in and around the pool has been very high, causing serious welfare concerns associated with stress and anxiety, disease spread, and lack of freedom of movement.

The biggest non-health concern is ongoing habituation of the calf to the presence of people, including some basic training of the calf (e.g. to recall the animal by hand commands) which Dr Visser has undertaken. Such interactions and training elevate the risk that the calf, if released in the wild, will continue to seek out human contact and become a public nuisance. An example of this occurred with a young orca in the United States, which sought out interactions with boats after release and was being considered for recapture and euthanasia due to the public hazard it posed. Before this decision could be made, it was struck by a vessel and killed.

On Sunday 18 July, DOC created an exclusion zone around the pool, with the Orca Research Trust/WhaleRescue.org volunteer office moved outside the zone. Agreement was made with the Orca Research Trust/WhaleRescue.org to restrict pool numbers to 2 (except at feeding time when it was agreed more people were needed) and 2 people in the zone around the pool. This has not been followed. On Sunday afternoon we observed 7 people in the pool with the calf and over 23 people immediately around the pool. The ongoing inability to minimise human interactions with the calf continues to increase the likelihood of habituation occurring, and thus decrease the likelihood of a successful release.

On Monday 19 July, a Technical Advisory Group (TAG) was convened with national and international professionals with expertise in orcas, captive marine mammals, marine mammal conservation, veterinary medicine, animal ethics and welfare and traditional knowledge (Ngāti Toa Rangatira). The appointment of TAG members were agreed with the Orca Research Trust/WhaleRescue.org's Dr Visser and Ngāti Toa Rangatira. The TAG reviewed a draft table of management response scenarios and discussed the relevant considerations. They were not able to provide an assessment of appropriate decision timeframes or levels of success. They did however agree to rule out some scenarios that were of particularly high welfare or cultural concern.

The TAG's New Zealand animal ethics/welfare expert – Dr Ngaio Beausoleil, Co-Director of the Animal Welfare Science and Bioethics Centre at Massey University – subsequently provided a possible decision-making framework for us to work through. We have assigned the task of populating this framework with information and criteria sufficient to guide

decision-making to our DOC veterinary lead, but this is now on pause because the DOC veterinarian is needed on site. In addition, this is not a trivial task and will likely take substantial time and work with the TAG and other experts to complete. In our view, unless the decision is made immediately that DOC is willing to hold the calf for an extended period of time, this framework will be more useful in a future incident. Otherwise, decision-making about the current incident should proceed without waiting for the output of the framework.

Based on input from the TAG and considerations raised by Dr Beausoleil's framework, the team have revised the scenarios table, drawing on the legal team, the DOC veterinary lead to the response and the advice from Animal Ethics Committee members (see Attachment 1). This document contains summarised analysis of the various scenarios which could unfold from this point onward, noting various risks and concerns, and estimating the likelihood of success. Success in this scenarios table is defined as: "Orca calf successfully reintegrated into a pod of wild orca and no longer dependent on human care and not seeking out human interactions". Our conclusion is that the option with the highest chance of 'success' (i.e. reintroducing the calf into a wild pod, where it remains without seeking out human contact) is still very unlikely, and becomes increasingly less likely as time goes on. Should reunification fail, DOC would then need to consider whether it was in the calf and pod's welfare interests to attempt to recapture the calf, or to euthanise it immediately. There are more details on these scenarios in Attachment 1.

On Wednesday 21 July we sought advice on these scenarios from some of DOC's Animal Ethics Committee members. **All were strongly in favour of euthanasia.** Likewise, advice from international and some domestic experts has been that the likelihood of a successful release is extremely small and if faced with a similar decision they would recommend euthanasia or permanent placement in a holding facility. No such facility exists in New Zealand, making that option very high risk.

On Friday 23 July we met with Dr Visser, Sandra McGill from Ngāti Toa Rangatira, and a vet from HUHA, to seek their views on the scenarios paper. The representatives considered the paper was weighted quite negatively and would have preferred seeing the "best outcome" options up front. Dr Visser suggested DOC should look at the information available regarding an orca calf that had been rescued and raised and had no ongoing issues. DOC has reviewed all known records of stranding and rescue efforts and has not found any example in New Zealand or worldwide of an unweaned calf which was taken into human care and then successfully released into the wild. Sandra McGill has agreed that if the orca needs to be moved from their rohe, they would be happy with that. They said their priority is about what's best for the orca. She requested that DOC look at other options for holding pens available around New Zealand. DOC has already considered and is not recommending the option of other holding pens on ethical grounds.

It was agreed that we would reconvene on Saturday 24 July at 4pm.

Throughout the response, the health and safety of DOC staff has been a priority and should remain so. We are concerned that members of the public such as Dr Visser and her Whale Rescue team are not prioritising their own health and safety. They are operating on little sleep, and in the early stages of the response were using a boat without lifejackets.

## **Recommendation**

It is our view that there are no viable scenarios that do not significantly compromise the welfare of the calf and drastically increase the risk of its habituation to humans, making successful reunification with its pod highly unlikely.

The option identified as "success" in the scenarios table is to reunite the pod with its calf carries considerable risk for the calf in terms of both physical and mental health, is

operationally highly unlikely to succeed in a near-term timeframe. It becomes less likely to succeed day-by-day as the mother becomes more likely to stop lactating and has significant welfare consequences if an attempt were to fail.

*(The following three paragraphs are Legally Privileged)*

[REDACTED]

[REDACTED]

[REDACTED]

**We conclude that based on technical, ethical and legal advice, the best approach for the welfare of the calf is to euthanise it as soon as possible.**

This option would also allow DOC to manage its obligations to staff under the Health and Safety at Work Act 2015 more effectively, likely with the assistance of New Zealand Police.

#### **Treaty Principles (section 4) – Ngā mātāpono Tiriti (section 4)**

The principles of the Treaty of Waitangi have been given effect to, as required by section 4 of the Conservation Act 1987, in particular partnership and informed decision making. DOC has closely engaged and consulted with Justin Stretch on behalf of Ngāti Toa Rangatira throughout this process. Through Mr Stretch we understand Ngāti Toa Rangatira are keen to avoid euthanasia but are focussed on the welfare of the orca.

#### **Risk Assessment – Aronga tūraru**

DOC considers euthanasia presents the lowest risk to the orca calf's welfare. Wellington Zoo veterinarians have indicated that they will support DOC if euthanasia is the necessary outcome.

Some international and national cetacean scientists and animal welfare/ethics experts are calling for euthanasia and will see this as the correct decision, perhaps taken later than it should have been.

The practicalities of attempting to reunite the calf with a pod at sea would pose risks to the calf, and the pod. It would also create significant health and safety concerns for DOC staff,

and possibly members of the public, and would need to be managed closely with assistance from New Zealand Police.

There is however a very high risk of negative reactions from some sections of the public and possible negative reactions from whānau, hapū and iwi.

Orca Research Trust/WhaleRescue.org's Dr Visser has a very strong vocal following in favour of taking all steps to avoid euthanasia. Communications by Visser's organisations have built public expectations that a successful release is possible and that absolutely every effort will be made to make this happen. There is likely to be a very strong negative reaction at site and online. There are also some international marine mammal captivity experts that may react negatively.

While we understand that Ngāti Toa Rangatira are keen to avoid euthanasia but are focussed on the welfare of the orca, there may be some whānau, hapū and iwi who disagree and react strongly.

*(The following two paragraphs are Legally Privileged)*

[Redacted]

[Redacted]

We consider the main risks of deciding to euthanise the calf poses a reputational and health and safety risk, and are working with the DOC Security Team, New Zealand Police, DOC Communications, DOC Health and Safety Unit and Legal Services to manage this.

Should DOC decide not to euthanise the calf, DOC may face criticism for failing to meet our statutory obligations to manage marine mammals and alleviate distress. There would also be reputational risk.

### **Next steps – Ngā tāwhaitanga**

Decide whether to approve our recommendation and if in agreement, finalise planning for euthanasia.

### **Attachments – Ngā tāpiritanga**

- Attachment 1 – Analysis of scenarios for responding to orca calf incident