

Section 42A Officer's Summary Statement

Proposed Plan Change 1 — Regional Coastal Plan — Kermadec and Subantarctic Islands

Report prepared by: Jesse Gooding

9 June 2026



Department of
Conservation
Te Papa Atawhai

**Te Kāwanatanga
o Aotearoa**
New Zealand Government

1. Introduction

1. My name is Jesse Quentin Gooding. I am a Senior Resource Management Planner employed by DOC. I prepared the s42A Report for PC1. I confirm that I have read all the submissions, further submissions, submitter evidence and technical documents relevant to my s42A Report. I have the qualifications and experience set out in my s42A Report.
2. I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 that I have complied with it when preparing this summary and will do so when presenting it orally.
3. The purpose of this summary is to provide the Panel and submitters with the following:
 - a. Corrections I wish to make to my s42A report;
 - b. A brief summary of key issues raised in submissions and my recommendations in response;
 - c. Any updates to the recommendations contained in my s42A Report and any issues that appear to have been resolved on the basis of pre-circulated evidence
4. Proposed Plan Change 1 to the Regional Coastal Plan: Kermadec and Subantarctic Islands (PC1) was publicly notified on 24 September 2025. Under section 31A of the Resource Management Act 1991 (RMA), the Minister of Conservation (the Minister) has the same responsibilities, duties and powers under the RMA that a regional council would have if the coastal marine areas (CMA) of those islands were within the region of that regional council. As part of those responsibilities, a former Minister approved the operative Plan in 2017. Department of Conservation (DOC) officials are now progressing PC1 on behalf of the Minister.
5. The changes proposed in PC1 are narrow in scope and address specific matters. The proposed changes have been developed to address legislative, policy and technology changes that have occurred since the plan was developed in 2010. They also address the risks to people, vessels and the environment that have come to light during implementation of the plan in the intervening period.
6. There is a specific exemption for PC1 in Part 5B of the RMA, which contains the ‘plan stop’ provisions that were introduced by the Resource Management (Consenting and Other System Changes) Amendment Act 2025 | New Zealand Legislation [s80U(2)(g)]. This means PC1 can proceed following the standard Schedule 1 process.
7. 11 primary submitters and two further submitters made submissions on PC1. Submitters have requested some amendments to the proposed provisions, ranging from total opposition to PC1 or broad support.

1.2 Corrections to my s42A Report

8. Appendix B to my s42A Report¹ has referred to “recommended changes to Policy 7” this is an error. My recommendation is in fact to introduce a new policy (X), leaving Operative Policy 7 unchanged. Policy 7 has simply been shown above the new policy for context.
9. The version of new Policy X inserted into Appendix B is also incorrect. This version was a working draft that has been inserted in error. The correct version, recommended for inclusion in the Plan is shown after paragraph 102 in my s42A Report and after paragraph 8 in my s32AA evaluation.
10. Mr Shaw on behalf of Sanford Limited notes that Policy 3 includes bullet points where the Operative Plan shows subclauses ‘a), b) and c).’ This helpful observation has been noted, and I have checked the other provisions in the proposed Plan for this error. The same replacement of lettered or roman numeral sub-clauses with bullet points has also occurred in several other policies. These errors appear to have occurred due to formatting changes while publishing the proposed Plan. Where this has occurred I recommend a global change to replace the bullet points with the correct numbering/listing system. I can provide schedule of all provision that require this amendment when formally responding to submissions after the oral hearing. I understand this matter could be addressed as a minor correction.

1.3 Summary of key Topics

11. In my s42A report, I divided my consideration of submissions into seven topics. These topics are set out below, with a summary of the key issues raised in submissions, and my recommendations:

- a. **Topic 1: General submissions**

Heritage Expeditions (2018) Limited (HEL) have requested PC1 be withdrawn on the basis that it is inefficient for the plan change to proceed in light of the impending replacement of the RMA.

I recommend PC1 proceed as the RMA remains in force and the Natural Environment and Planning Bills carry no legal weight. I consider PC1 remains broadly appropriate to address the resource management issues identified, will be effective and efficient and will meet the sustainable management purpose of the RMA.

- b. **Topic 2: Terminology changes in relation to natural character**

Te Ao Marama Inc. queried the evidential basis and practical implications of changing the words ‘significant natural character’ to ‘outstanding natural character’ in the Plan. My recommendation on this matter is to retain the proposed changes. I have provided further information on the evidential basis and practical significance of the proposed change in my s42A Report.

¹ Appendix B — Recommended Amendments to Proposed Plan Change 1, pg. 4

c. **Topic 3: Access and anchoring – Ancillary craft (proposed changes to Rules 40 and 56)**

Submitters interested in these amendments oppose and/or oppose in part the changes. Broadly, they question the navigation safety benefits of the proposed changes and are concerned the proposed rule will lead to unnecessary curtailment of existing use, such as access to landing sites and ‘zodiac cruising.’² My s42A Recommendations on this topic are to Amend proposed Rule 40 — Ancillary Craft, providing for existing use and increased operational flexibility where appropriate, while maintaining clear, risk-based permitted limits. In Rule 40, those permitted limits are that ancillary craft must be within 1000 m from where the mothership is authorised to access in accordance with the Plan and within 6000 m of the mothership, at any time. I have recommended changes to Rule 56, which manages ancillary craft use at the Kermadec Islands to achieve wording consistency with my Rule 40 changes.

d. **Topic 4: Access and Anchoring – New Rule 47A and the consequential change to Rule 47**

There has been a submission in support and others in opposition to the proposed Rule. Those opposed cite the environmental and navigation safety risks associated with allowing resource consent applications to be made for vessels longer than 125 m to access and anchor in Perseverance Harbour, Campbell Island / Motu Ihupuku. In response to submissions on this topic, I have recommended proposed Rule 47A and the consequential change to Rule 47 be retained while introducing a new policy and supporting navigation safety guidance for applications made under Rule 47A, to ensure the risk of a navigation safety incident, and resulting adverse environmental effect, is minimised. Ponant have requested Rule 47A be extended to include Carnley Harbour. Having read the Department’s opening legal submissions, I understand this request is unlikely to be in scope of PC1 but I have still assessed it on its merits in my s42A Report where I recommend this request be declined based in part on the navigation safety advice of Mr Dilley.

e. **Topic 5: Access and Anchoring – Port Ross Winter Restrictions — Proposed changes to Rules 34, 37, 40–43, 46 and 49, performance standards 5 and 6 (in Table 2), and adding a new Note 7 to restrict access to Port Ross, Auckland Island in the winter months (1 April to 31 October).**

Seafood industry submitters oppose these changes as they consider Port Ross should always be available to their vessels for shelter. Having considered these submissions I recommend retaining the proposed changes to manage winter access to Port Ross, Auckland Island, to minimise adverse effects on Tohorā / southern right whale and the risk of a navigation safety incident that could result in an adverse effect on the environment.

f. Te Ao Maramara Inc (TAMI) sought amendments to Performance Standards 5 and 6 in Table 2. As outlined in their submission and in my

² As described at page 13 of the proposed Plan.

s42A Report I conclude that the changes sought would require a substantive change to the scope of Rule 39 (research activities) and that such changes are unlikely to be ‘on’ PC1. I therefore recommend that the changes sought by Te Ao Marama. in relation to Performance Standard 5 are not accepted. I note, however, that broader changes to address the exercise of rangatiratanga, kaitiakitanga and mātauraka could be more appropriately explored as part of a full plan review, and that this should include consideration of the current scope of Rules 38 and 39 and the appropriateness of the current research strategy (as incorporated in Rule 39) from an iwi perspective, particularly given the age of that strategy.

- g. **Topic 6: Access and Anchoring** - The proposed changes to Rule 42, adding new permitted anchorage locations at Round Point and Crab Bay in Carnley Harbour and adding two new chartlets into the Plan: 9A – Round Point and 9B Crab Bay

The new anchorages are supported by the relevant seafood industry submitters. Seaeagle Fishing Limited and Barine Developments Limited seek clarification on access and anchoring outside 300 m in the North Arm, in Carnley Harbour. All of the seafood industry submitters seek an additional anchorage be added to Rule 42 which is interchangeably referred to as “Tucker Point” or “Lookout Point” in submissions. Taking account of the navigation safety advice of Jim Dilley that this is unlikely to provide adequate shelter and considering the matters already discussed in relation to Port Ross, I recommend this request be declined.

- h. **Topic 7: Vessel hull and niche area biofouling**

Amendments to the Performance Standards and inspection requirements for controlling hull and niche area biofouling to improve management of the risk of introducing harmful aquatic organisms to the marine environment are opposed by HEL, Rodney Russ and the seafood industry submitters. HEL and Mr Russ are concerned the proposed changes will unnecessarily duplicate MPI’s Vessels Craft Risk Management Standards 2023. Seafood industry submitters are generally concerned the amendments do not make risk-based distinction between domestic and international vessels. Having considered these submissions I recommend retaining, with minor technical amendments, the proposed changes to Performance Standards and inspection requirements, including by accepting NZDF suggestion that the Appendix 4 Forms be amended to clarify that the inspection report should contain representative photos and videos.

- i. Finally, I recommend retaining the proposed changes to the glossary, subject to minor amendments.

Updates to recommendations and any issues that appear to have been resolved

12. I have read the evidence provided by submitters. I note that in relation to the submitters who have filed evidence, most of the issues raised in paragraph 11 above, TAMI and New Zealand Defence Force points aside, appear to remain outstanding.
13. Since the provision of the s42A Report both TAMI and the NZDF advised they no longer wish to attend the hearing. The matters they raised in their submissions appear to have been resolved. The specific comments of TAMI in response to the s42A Report have been addressed in the DOC legal submissions.
14. I have not provided a preliminary view on all outstanding matters at this time, as I wish to hear the oral evidence and the Panel questions before I provide updated recommendations. I understand that I will have the opportunity to provide a formal response to the matters heard at the hearing. I also note that no submitter has filed planning evidence, meaning a number of the matters raised sit outside my area of expertise, and may need to be considered by other technical experts where appropriate.
15. However, at this stage, based on the evidence lodged, I make the following comments:
 - a. I agree with the point made by Nathan Russ at paragraphs 32 – 33 of his evidence³ that under the s42A recommended drafting of Rule 40 there is ambiguity as to how the 1000 m and 6000 m permitted distance limits will be measured. Having discussed this with Mr Dilley I understand the distance of ancillary craft from the mothership would be measured in a straight line over a 1000 m and 6000 m radius (for the respective limbs of the Rule) with the centre point of the radius at the bridge of the mother ship. Accordingly, I will recommend amendments to proposed Rules 40 and 56 when I formally respond to submitter evidence prior to the close of the hearing.
 - b. At paragraphs 35 and 36 of his evidence Mr Smith appears to raise a concern about cruise ships that may use Heavy Fuel Oil (HFO) entering Perseverance Harbour. Operative Rule 33 prohibits access to the Coastal Marine Areas (CMA) of the Subantarctic Islands by vessels carrying HFO as a fuel or a cargo regardless of their length.⁴ I can confirm proposed Rule 47A in no way alters the prohibition in place under Rule 33. Cruise ships carrying HFO could not apply for consent to access Perseverance Harbour.
 - c. There is a theme in the evidence of Darren Shaw for Sanford Limited where he refers to the absence of a permitted activity pathway for certain activities as “preventing” those activities from occurring. For example, at several paragraphs in his evidence⁵ Mr Shaw refers to the proposed

³ Evidence of Nathan Russ for Heritage Expeditions (2018) Limited at paragraphs 32 and 33.

⁴ Except as provided for in Rules 1 and 34 and by any consent granted under Rule 35. Rule 34 prohibits the subject fishing vessels from going closer than 2nm from the Auckland Island MHWS and 1.5nm than Campbell Island MHWS. Rule 35 allows cruise ships carrying Heavy Fuel Oil to access (but not anchor) 0.54nm (1000m) or more from MHWS and in the exemption zone on Map 6 of the Snares Islands/Tini Heke by cruise ships using or carrying heavy fuel oil as a fuel for the purpose of allowing passengers to watch titi leaving or returning to Snares Island.

⁵ Evidence of Darryn Shaw for Sanford Limited at paragraphs 23(b)(ii), (iii), 24 and 30

changes to Rules 34, 37, 38, 39, 40, 41, 42, 43, 46 and 49 as “preventing” access to Port Ross at Auckland Island. Mr Shaw opines that the changes risk creating an inconsistency in the Plan with Operative Objective 1.2 and Operative Policy 9. In my opinion, this is a mischaracterisation of the proposed changes. Firstly, the changes do not propose prevention or outright prohibition of access to Port Ross. Scampi vessel operators such as Sanford that cannot comply the permitted activity rule may apply for access and anchoring in Port Ross as a discretionary activity under Operative Rule 45. Secondly, a permitted activity pathway remains in place for research and management vessels seeking to access Port Ross in accordance with Rules 38 and 39, and as Mr Shaw notes Rule 1 remains in effect, providing for access and anchoring in Port Ross where its conditions are met. Objective 1.2 is:

‘To enable use that is consistent with the preservation of natural character.’

The enabling intent of the Objective is qualified with the words preservation of natural character. Just as relevant but omitted by Mr Shaw it is accompanied by Objective 1.1

‘To preserve natural character’

and 1.3:

‘To protect the indigenous biological diversity of the Kermadec and Subantarctic Islands and their coastal marine areas by avoiding the adverse effects of activities on all of the nationally significant indigenous flora and fauna communities present.’

As outlined by Ms Corne, Port Ross is a significant wintering habitat for a threatened species — Tohorā / Southern Right Whale.

Mr Shaw refers to Operative Policy 9 —

‘To avoid adverse effects on southern right whales when they are breeding and nursing in Port Ross by restricting vessel access.’

He reasons the proposed changes are inconsistent with the policy on the flawed basis that they “prevent” rather than “restrict” access. In my opinion, this analysis is incorrect for the reasons I have outlined. The proposed changes restrict access to Port Ross, while maintaining a permitted activity pathway for research and management, and do not preclude Sanford or any other scampi fishing operator from applying for resource consent, for example, under Operative Rule 45. In my opinion, this framework is entirely consistent with Policy 9.

- d. Mr Shaw has characterised my s42A Report as suggesting Rule 1 is in some way preferred by DOC as a method for enabling vessels to shelter in Port Ross. This is erroneous. Rule 1 is unaltered by PC1. It applies in accordance with its stated terms. Where exercise of the Rule is being considered the onus is on the plan user to determine whether they comply with the Rule, including its activity standards which are:

(a) for refuge in the event of an emergency or any other force majeure or when in distress or danger; or the purpose of assisting others in distress or danger⁶; or

(b) where in the reasonable judgment of the captain of the vessel it is required to:

(a) avoid serious risk to life or health; or

(b) repair or prevent serious damage to the vessel

The plan user must also meet the conditions of Rule 1 which require access only for the minimum duration necessary to respond to the event and reporting back to DOC, within 14 days of access.⁷ In my s42A Report I have described Rule 1 as a ‘backstop’, available in the event a vessel master determines it may be exercised. None of this is altered by PC1.

- e. In relation to the biofouling changes, Mr Shaw has referred to the words “and certification” in Policy 3(c)⁸. Mr Shaw appears to be concerned that removal of the requirement to use “Approved Inspectors” undermines the ability certify dive inspections in accordance with the Policy 3. In my opinion the removal of the requirement to use approved inspectors does not create any tension with the certification element of Policy 3. The proposed changes require a dive inspector to “*certify that the vessel has:*

(a) passed the inspection OR

*(b) Failed the inspection”.*⁹

- f. Finally, Sam Penwarden has commented on Map 3¹⁰, in Appendix 1 of the proposed Plan which shows Carnley Harbour, Auckland Island. He notes much of the area known as the North Arm, in the northern reach of Carnley Harbour, is shaded light blue implying it is within 300 m of MHWS. This area has also been shown in the legend in Figure 5 of my s42A Report as “300 m (plus extensions).” Some of this area is not within 300m of MHWS. I understand this has been depicted on the map in this way, in the Plan, in recognition of the sealion breeding site at Figure of Eight Island. However, the relevant plan rules only refer to the zone 300 m from MHWS – not the extended light blue zone, I therefore agree with Mr Penwarden’s suggestion that Map 3 be amended to correct this (i.e., that the light blue area outside of 300 m from MHWS be deleted).

⁶ Note that Rule 1(a) is consistent with UNCLOS article 18(2) as far as that relates to the territorial sea. UNCLOS is the United Nations Convention on the Law of the Sea, also called the Law of the Sea Convention or the Law of the Sea treaty. It is an international agreement that defines the rights and responsibilities of nations in their use of the world’s oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources.

⁷ Reporting back on date of access, duration of access, and reasons for access.

⁸ As noted above subclauses to Policy 3 have erroneously been shown as bullet point in the Operative Plan

⁹ Redline Plan Appendix 4, Form 1 pgs. 129 – 130

¹⁰ Mr Penwarden has referred to it as “Map A2”.

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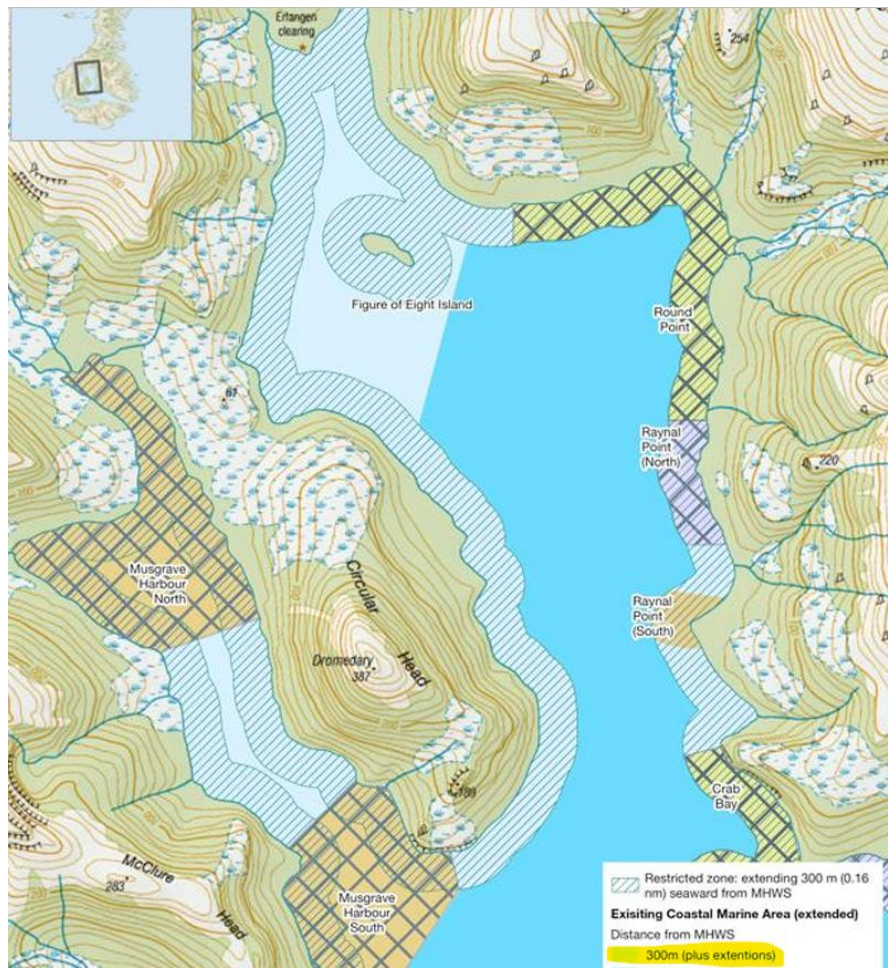


Figure 1 — Map showing 300 m (plus extension) area for deletion.