

# Guide to New Zealand's Maritime Security Arrangements

February 2024

Guidance Document



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INTRODUCTION

# Introduction: The need for a guide

**New Zealand’s maritime security is delivered by multiple agencies which come together under the Maritime Security Oversight Committee (MSOC).**

MSOC’s Maritime Security Strategy (the Strategy) provides direction by setting out a vision for a sector that contributes to New Zealand’s national security through a common approach, coordinated investment and effective resource prioritisation.

This Guide supports that common approach by making available the knowledge that the sector and associated national security practitioners need to perform their roles as *kaitiakitanga o te moana* or guardians of our maritime domain. It is designed to be read in conjunction with the Strategy and the latest Maritime Security Assessment so does not repeat the content found in the Strategy and the Assessment.

This multi-agency Guide is coordinated by Te Manatū Waka Ministry of Transport, the Strategic Coordination Agency for maritime security.

## Guide contents

The Guide starts with a description and a graphic showing New Zealand’s maritime domain and area of interest. At approximately 40 million km<sup>2</sup> it is 1/12<sup>th</sup> of the earth’s surface,<sup>1</sup> which by way of comparison is 10 times larger than the Arabian or South China Seas.

The Guide then focuses on each of the Strategy’s 18 threats and interests.

Finally, annexes summarise relevant supporting information on:

- Annex A: The Maritime Powers Act 2022,
- Annex B: New Zealand’s maritime security related international arrangements, and
- Annex C: Maritime security legislation summary.

The Guide ends with a glossary.



1. 510mkm<sup>2</sup>.

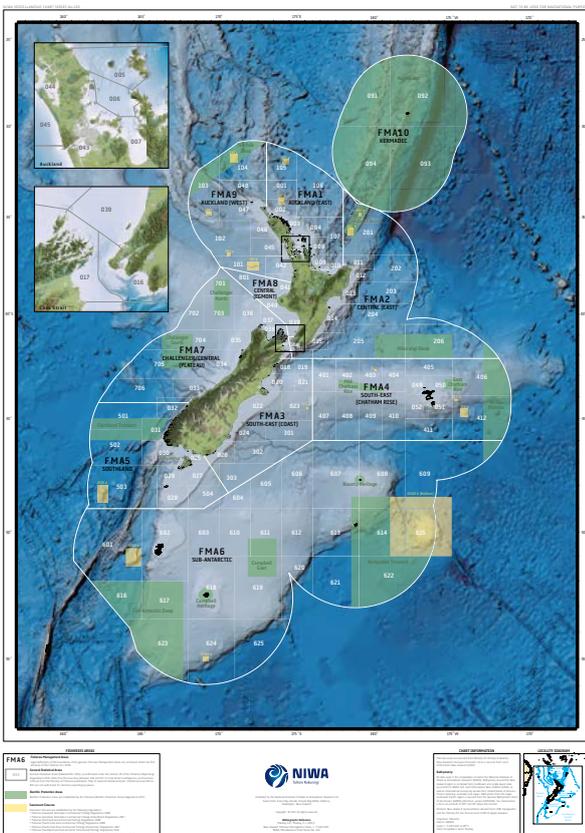
## Other resources

Other information sources that readers may wish to explore include the following.

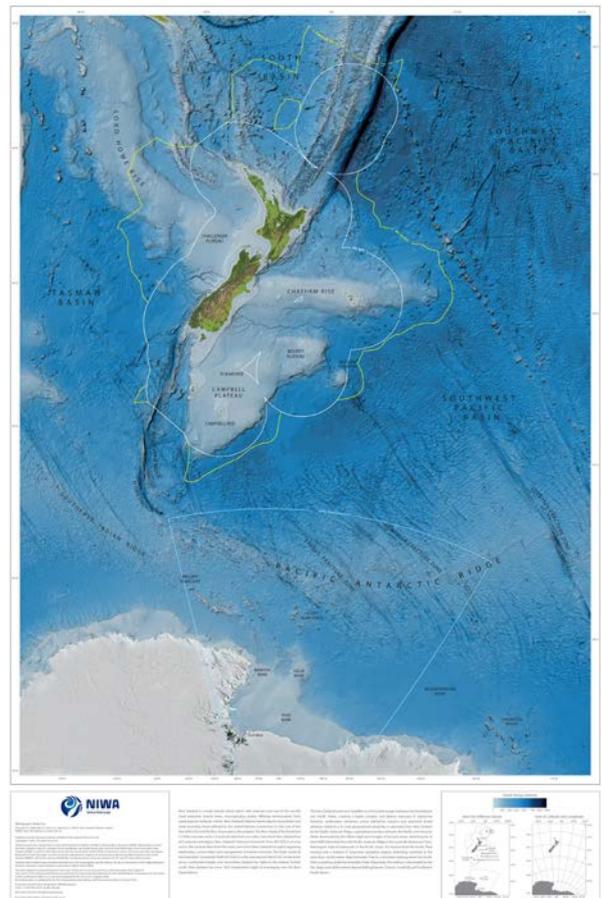
**NIWA** has a wide selection of charts and maps of New Zealand’s maritime area of interest, including the two examples below, at: <https://niwa.co.nz/publications/posters>

The **Routledge** Handbook of Maritime Regulation and Enforcement is a handy reference for those who wish to go deeper than the high level overview given in this Guide: <https://www.routledge.com/Routledge-Handbook-of-Maritime-Regulation-and-Enforcement/Warner-Kaye/p/book/9781138614390>

### New Zealand Fisheries Management Areas



### New Zealand’s Marine Realm

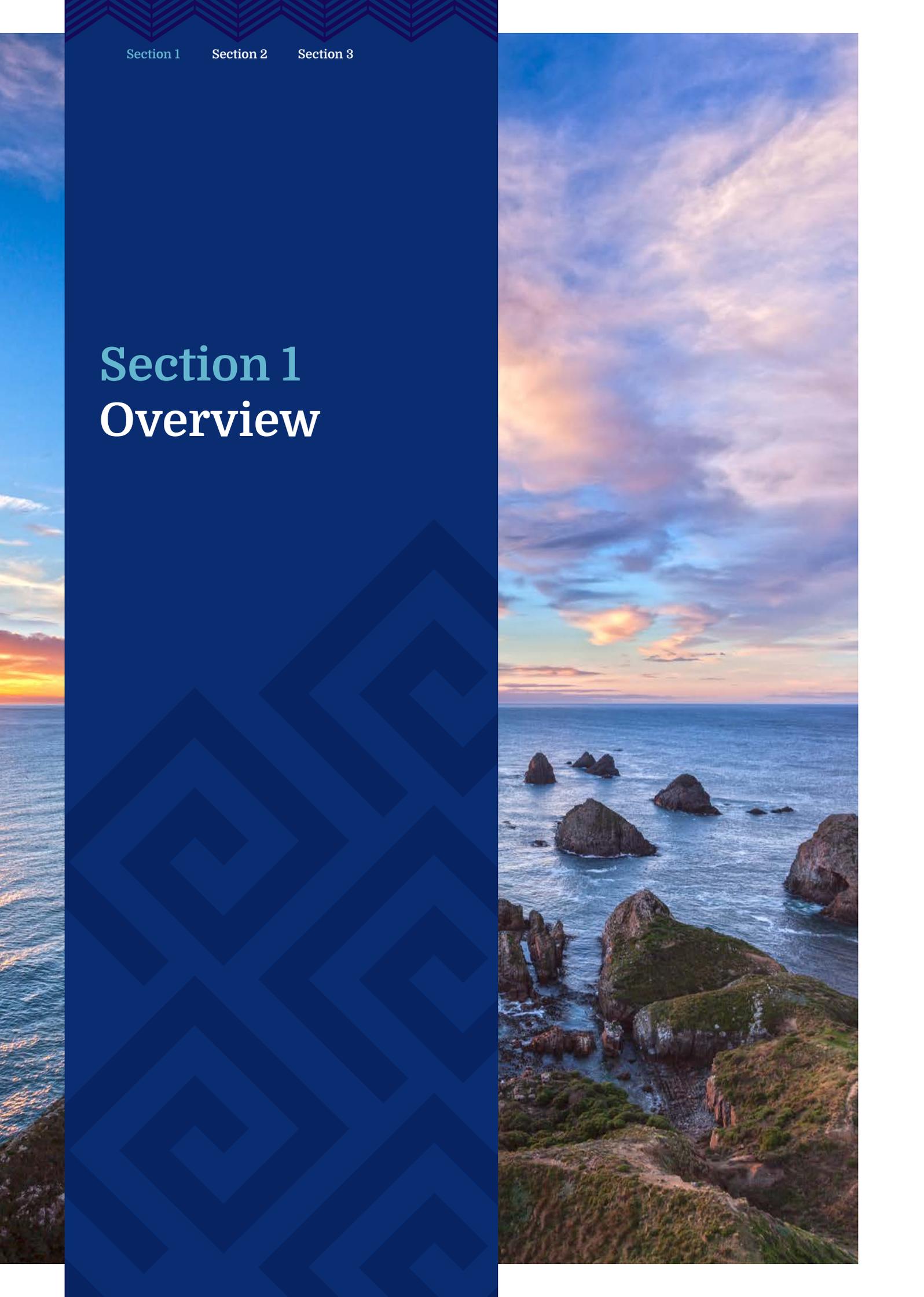


Section 1

Section 2

Section 3

# Section 1 Overview



# Maritime Security Strategic Coordination Agency

As the Strategic Coordination Agency (SCA) for maritime security, the Ministry of Transport is responsible for:

Supporting the lead minister's (Minister of Transport) oversight, including through strategic advice representing whole-of-system thinking, intelligence, policy and risk assessments

Implementing the Maritime Security Strategy, including setting the national strategic direction and work programme, and maintaining/refreshing action plans with key stakeholders

Identifying and addressing gaps in the cross-government work programme – for example, issues or problems that fall outside existing agency roles or responsibilities

Ensuring the system is convened and working effectively together through the Maritime Security Oversight Committee (MSOC), which is the national security committee responsible for overseeing maritime security in New Zealand

The SCA function is performed by the MSOC Secretariat based in the Ministry of Transport.

Contact them via  
[MSOCSecretariat@transport.govt.nz](mailto:MSOCSecretariat@transport.govt.nz)

**OVERVIEW**

# National Maritime Coordination Centre

## Background

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The National Maritime Coordination Centre (NMCC) was established by Cabinet Directive<sup>2</sup> to be New Zealand's 'single, independent national Maritime Coordination Centre that combines information management and operational activities in respect of the civil security of New Zealand's maritime areas'.

## Purpose

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The NMCC has three key purposes:

- To support the effective and efficient use of New Zealand's maritime patrol and surveillance assets for civilian purposes.
- To contribute to maritime domain awareness (MDA) in relation to sovereignty, security, safety, economy, environmental or foreign policy interests of New Zealand.
- To support and facilitate effective use and accessibility of maritime-related information that supports core business of government agencies.

## Functions

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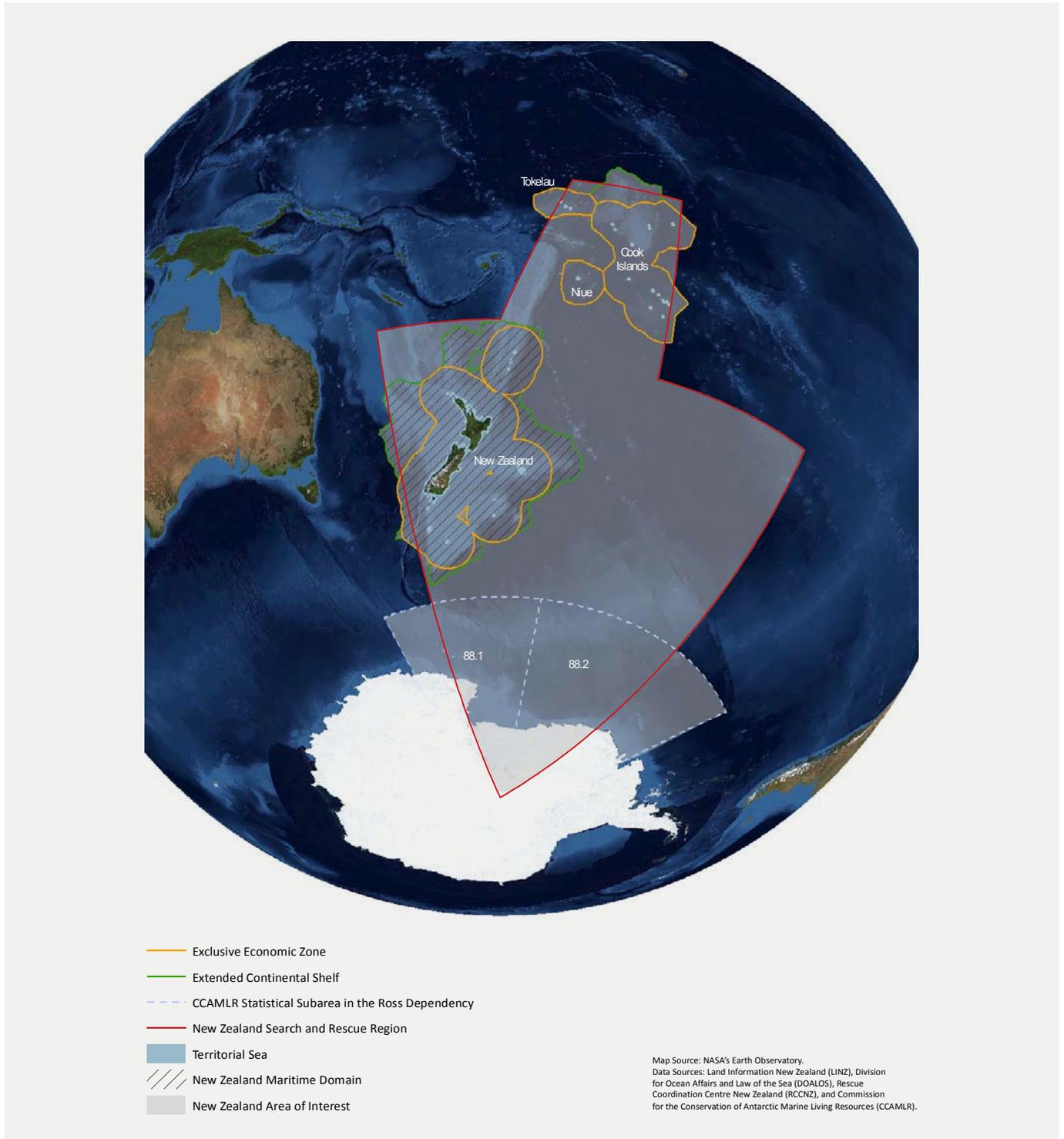
To achieve its purposes the NMCC has three key functions:

- Coordinate the provision of a Common Operating Picture to participating agencies. The NMCC will track Vessels of Interest and provide indications and warning of activity of concern in New Zealand's Area of Interest.
- Coordinate allocation of available maritime patrol assets.
- Identify information gaps and related issues with respect to effective maritime patrol and surveillance.

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2. Cab Min (01) 10/10, 2 April 2001

# New Zealand's maritime domain and area of interest<sup>3</sup>

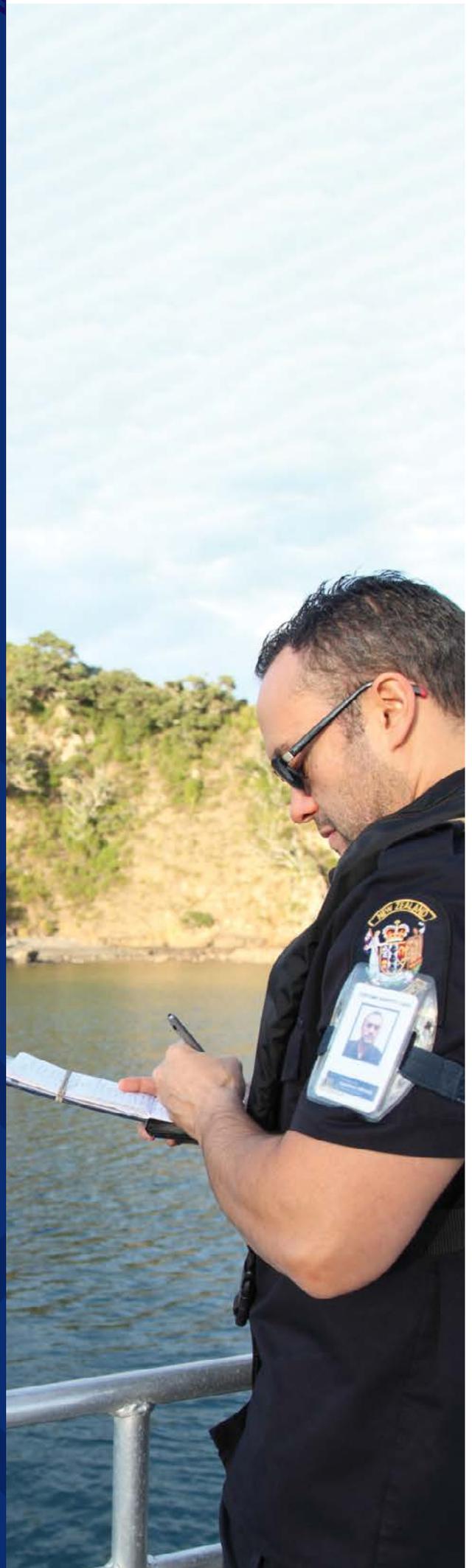


3. Produced by Geospatial New Zealand (GNZ) 09 Feb 2021 (GNZ-21-7373-U). Crown copyright 2021 New Zealand Defence Force.

## Section 2

# Threats and interests

This section describes the 18 threats and interests that MSOC oversees.



## ➤ Prohibited imports and exports

### Key points

Smuggling is the deliberate movement of contraband into sovereign territory.

It can be driven by financial gain or ideology.

Methods range from highly sophisticated concealments and supply networks established by Transnational Organised Crime (TNOc) groups, through to individuals ordering illicit goods/products online or smuggling goods in person.

It involves a wide range of goods and has adverse impacts on many different aspects of New Zealand. Successful smuggling impacts the economy, environment, individuals, social and cultural aspects of New Zealand. It also has regional impacts.

Smuggling is an enabler for other risks to New Zealand including TNOc, terrorism, biosecurity and others. Proceeds from smuggling may also be used to finance further criminal activity both by organised crime groups and/or individuals in New Zealand and overseas.

#### Threat Snapshot – August 2020 *MV Zhi Yu Yun 368* at sea transfer with Fishing Vessel *Coralynne* – 2 tonnes cocaine

The National Maritime Coordination Centre observed the *MV Zhi Yu Yun 368* reporting its AIS position inside the NZ EEZ near the Kermadec Islands. As the vessel came from an area known for drug trafficking and was showing suspicious behaviour, NMCC alerted New Zealand and overseas partners.

Based on this, Australia tracked and intercepted a daughter ship, the *FV Coralynne*, that rendezvoused with *MV Zhi Yu Yun 368*. This resulted in the seizure of 1,890kgs of cocaine.



*FV Coralynne* and Australia Border Force boarding party

## ISSUES AND THREATS

### February 2023 Operation Hydros – 3.2 tonnes cocaine



NZ Customs, NZDF, NMCC, the New Zealand intelligence community and regional partners played a significant role in supporting NZ Police in the seizure of 3.2 tonnes of cocaine from the high seas adjacent to the NZ EEZ in vicinity of the Kermadec Islands.

NMCC coordinated the identification and monitoring of the target vessel, airborne surveillance and the recovery of the cocaine at sea. NZDF carried out high tempo P-3K2 Orion patrols and deployed offshore support vessel *HMNZS Manawanui* at short notice. They also used UNCLASSIFIED space-based sensors to carry out surveillance of the area.

## Context

Smuggling is where people get around the law or taxes at the border for profit or personal gain. It happens where goods are hard to get locally, and there is a market for them and the opportunity to make a profit.

TNOC groups are heavily involved in smuggling internationally and they have become more interconnected globally and sophisticated in their smuggling attempts. This has seen the size and scale of smuggling increase globally. New Zealand is likely also seeing the impacts of this sophistication as record frequency and volumes of illicit drugs and goods subject to tax, such as tobacco, are being seized in New Zealand.

Interceptions of smuggling both to and from New Zealand happen multiple times a day through various supply chains and import streams, ranging from prescription medicines and weapons being sent via mail, undeclared cash being carried by passengers and multiple kilograms of illicit drugs concealed in air and sea cargo.

Individuals and/or organised crime groups increasingly take advantage of emerging technology, increasing trade and travel, and online marketplaces to hide their identity and conceal illicit goods to prevent disruption and detection by authorities.

In the future, there are several factors that are likely to increase the level of risk of smuggling in New Zealand, including:

- new legislation and taxes on goods, affecting supply
- increasing demand for illicit goods
- smugglers using technology and other new practices to avoid detection
- increasing overall volume of trade, enabling the concealment of illegitimate goods amongst legitimate cargo.

## Drivers

Individuals and organised crime groups identify market gaps or opportunities and exploit these to make a profit. Goods smuggled across the border are usually restricted in their supply through regulation (e.g. firearms), face high duties or excise (e.g. tobacco and cigarettes) or are highly desirable (e.g. flora and fauna). Other goods, like objectionable material and illicit goods, are prohibited.

These factors increase the price of the goods in the domestic and international markets and hence their profitability once smuggled into New Zealand. One example is a NZ\$4,500 wholesale kilogram of methamphetamine in China, which can be sold in the New Zealand market for as high as NZ\$160,000, representing a 3,500% increase in profit onshore in New Zealand.

Since 2018, an attractive operating environment and the opportunity for profit in the New Zealand market have seen the rise of syndicates in the Americas attempting to carve out a section of the New Zealand market. Credible intelligence states that members of Mexican organised crime groups are targeting New Zealand with imports of methamphetamine and cocaine, attracted by very high street prices when compared with other countries. Increased interest is concerning because of the risk of drug-related harm and because Mexican organised crime groups routinely operate with a level of violence which is foreign to New Zealand.

Southeast Asian criminal groups also continue to collaborate extensively across the globe to arrange shipments of hundreds of kilos of drugs to New Zealand. There is a need to prevent these groups and other large scale and highly organised groups from becoming entrenched in New Zealand and facilitating large scale drug smuggling.

Globalisation of the supply chain and the prominence of e-commerce has resulted in a globalised network of goods being shipped and transhipped<sup>4</sup> across different countries. Organised crime groups seek to exploit this by attempting to infiltrate the supply chain at various stages, hiding goods in legitimate cargo without the exporter's knowledge, and removing them at its destination.

Gang deportees from Australia have established new gang chapters in New Zealand (e.g. Comancheros MC) as well as contributing to the expansion of already existing gangs. The expansion of gangs in New Zealand is almost certain to drive an increase in illicit importations.

### Potential consequences for New Zealand

Smuggling impacts New Zealand's key national security objectives including:

**Ensuring public safety:** Smuggling enables the consumption and use of prohibited and restricted items which may pose dangers to public health (e.g. illicit drugs, firearms and tobacco).

**Preserving sovereignty and territorial integrity:** Smuggling, both to and from New Zealand, undermines the security of trade and controls at the border.

**Sustaining economic prosperity:** Commodities smuggled in to avoid duties and excise provide unfair advantages which damage New Zealand businesses and affect Crown revenue. Foreign pests, diseases and organisms damage New Zealand's primary industries.

**Maintaining democratic institutions and national values:** Smuggling involves the movement of goods that are designated as prohibited, protected or subject to tax to prevent harm to New Zealand. Organised crime groups look to infiltrate the legitimate supply chain and those involved to facilitate smuggling.

**Protecting the natural environment:** Smuggling of unimported pests and disease to New Zealand will have impacts on wildlife and the natural environment.

4. Transfer of (cargo) from one ship or other form of transport to another.

**ISSUES AND THREATS**

## Legislation

The Customs and Excise Act 2018 is the main legislative framework for managing the risk of smuggling as it sets out the obligations of persons who cross the border and those who cause or allow goods, persons, or craft to cross the border. The legislation also sets out the powers of New Zealand Customs in relation to goods, persons and craft. The legislation has been recently updated in 2018 to reflect the changing environment that New Zealand Customs now operates in.

The Customs and Excise Act is applied with other legislation targeting specific goods that are prohibited, restricted or subject to tax. It is enforced by New Zealand Customs at the border. Other relevant legislation includes the Misuse of Drugs Act 1975, Films, Videos and Publications Classification Act 1993, Arms Act 1983 and the Biosecurity Act 1993.

## Risk reduction, readiness, response and recovery

### Risk reduction

- Support for demand reduction initiatives and regulation changes.
- Capacity building in the Pacific and Southeast Asia to develop institutional capability and resilience to address regional smuggling.

### Readiness

- Intelligence-led risk management practices and ongoing refinement of targeting profiles to proactively identify risk.
- Enhanced information sharing and a focus on access to information as early as possible.
- Establishing intervention mechanisms offshore to prevent risk manifestation in New Zealand.

### Response

Disrupting the trade in illicit goods at the border and offshore, supported by inter-agency efforts to target key offenders and recover proceeds of crime.

### Recovery

Adapting border controls, profiling mechanisms and legislative settings to the changing environment.

## Stakeholder coordination

No single agency is responsible for managing the full spectrum of smuggling activities due to the range of illegal goods involved. Clear mandates are given to agencies who take leading roles in the targeting of different smuggling risks. New Zealand Customs is the lead agency for illicit drugs, weapons and tax avoidance at the border; Immigration New Zealand is the lead agency for immigration risk; and Ministry for Primary Industries is the lead agency for biosecurity risks occurring at the border.

Multi-agency cooperation and information sharing is essential in proactively identifying risky passengers and goods. Memoranda of understanding and information sharing agreements between agencies facilitate the transfer of knowledge and data. The establishment of multi-agency groups such as the **Joint Border Analytics team** and the **Collaborative Passenger Targeting team** in the **Integrated Targeting Operations Centre**, along with the **National Maritime Coordination Centre** ensures continual development of communication and targeting.

Cooperation and communication with domestic exporters, importers and travellers also supports data collection and procedures that protect our borders. Customs Controlled Areas at airports and other entry points help protect against trade-based fraud and tax avoidance.

Internationally, New Zealand Customs is represented at the **World Customs Organization** and engages in developing international standards to prevent smuggling and fraudulent activity. Overseas liaison officers in key countries of trade and border protection importance for New Zealand assist in gathering intelligence and working with overseas law enforcement to identify vulnerabilities in the supply chain and prevent risk and harm from reaching New Zealand.

Policy / Strategy <sup>5</sup>	
Lead	Support
NZ Customs	NZ Police, NZIC, MFAT, DPMC, MOD
Intelligence <sup>6</sup>	
Lead	Support
NZ Customs	NZIC, NZ Police, NDIB, MBIE, NZDF, MNZ, GNZ, NMCC, ITOC
Operational Delivery <sup>7</sup>	
Lead	Support
NZ Customs	NZ Police, NMCC, MNZ, ITOC

### Public information management

Public information management is led by Customs supported by other agencies as appropriate.

5. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.  
 6. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.  
 7. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Maritime mass arrivals

### Introduction

A mass arrival is when a group of more than 30 people cross an international border without valid travel documentation or do not fulfil the administrative requirements (including security checks and visa requirements) for leaving the country or entering the country of destination. This is also known as *irregular migration*.

### Key points

The Immigration Act 2009 includes specific provisions to deal with an arrival of more than 30 irregular migrants.

An arrival of more than 30 irregular migrants at the same time or in proximity is most likely by sea.

It would put significant pressure on New Zealand's resources and infrastructure. There is also the risk of migrant casualties due to unsafe conditions onboard or drowning. A successful attempt could also mean more mass arrival attempts and risk of more loss of life at sea.

### Response

A maritime mass arrival is likely to be of the scale and complexity required to justify activating the National Security System. As the lead agency MBIE is responsible for leading the All-of-Government (AoG) response to a maritime mass arrival through the Mass Arrival Response Plan (MARP). Around 30 different government agencies and non-government organisations will be involved or consulted in a response.

The priorities in a response are to ensure:

- the health and safety of New Zealanders is protected
- the health and safety of irregular migrants is protected
- the biosecurity of New Zealand is protected
- New Zealand's sovereignty and law is upheld
- criminal prosecutions targeting organisers and facilitators are pursued
- New Zealand meets its international legal and treaty obligations.

### Context

The facilitation of irregular migration is often people smuggling, which is a type of transnational organised crime. As such, this issue is covered by the TNOc Strategy and the Maritime Security Strategy.

New Zealand has been targeted unsuccessfully by maritime people smuggling ventures in the past. No maritime mass arrival attempt has successfully reached our shores.

In Canada in 2010, a test venture of 76 passengers was quickly followed by a vessel carrying 492, which put significant pressure on the Canadian system.

## Drivers

International or internal **conflict** causes displacement of people and leads to political and economic instability, further driving migrants to seek opportunities in safer and more prosperous destination countries.

Income disparity and rising unemployment in source countries are driving individuals to seek **economic security** perceived to be on offer in destination countries.

An increasing desire for a **higher standard of living** and **better governance** leads individuals to seek education opportunities in countries with good governance and transparent institutions, such as New Zealand.

New technology, such as social media and encrypted messaging applications, are **increasingly connecting** potential passengers with people smuggling enterprises.

**Climate change** (sea-level rise, salinisation of agricultural land, water scarcity) or climate events (flooding, storms) are expected to lead to displaced persons pursuing survival and livelihoods elsewhere.

## Legal aspects

The **Immigration Act 2009** defines mass arrival as a group of more than 30 individuals who arrive irregularly on one or more crafts, and who intended to arrive as a group. The Immigration Act allows Immigration New Zealand to seek a warrant of commitment to detain members of a mass arrival group to manage it in a safe and secure manner. Legislation is being progressed through Parliament which, if passed, would:

- a) extend the timeframe for a warrant of commitment to ensure the orderly management of a mass arrival group
- b) clarify requirements for entry permission; and
- c) consistent with international law, extend powers to interdict vessels and gather evidence of migrant smuggling offences.

People smuggling is a crime under **section 98C of the Crimes Act 1961**. The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both. New Zealand is also party to a number of international conventions and agreements that reflect our commitment to preventing and prosecuting people smuggling. These conventions and agreements include the United Nations Convention against Transnational Organised Crime (UNTOC) and its protocols, United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), and the Bali Process.

## ISSUES AND THREATS

## Risk reduction, readiness, response and recovery

### Risk reduction

New Zealand aims to prevent a mass arrival through strong relationships with key source and transit countries, improving migrants' access to information about regular pathways into New Zealand, strengthening capacity and capability overseas to prevent people smuggling, and building the capability of offshore law enforcement agencies to detect, investigate and prosecute migrant smugglers.

### Readiness

Development, maintenance and exercising of the Mass Arrivals Response Plan (MARP) to ensure that New Zealand is prepared to respond to a mass arrival event.

### Response

The MARP details how a mass arrival will be managed using an AoG approach, led by MBIE.

### Recovery

The final phase of the MARP is likely to be the longest duration – determination and investigation. This considers both the processing of irregular migrants and prosecution of people smugglers.

## Stakeholder coordination

Mass Arrivals Working and Steering Groups meet periodically, incorporating relevant agencies, to ensure alignment between policy, prevention, and response.

## Prevention

Policy / Strategy <sup>8</sup>	
Lead	Support
MBIE (INZ)	DPMC, MOD, NZDF, MFAT, NZ Customs, NZIC, NZ Police, MOH
Intelligence <sup>9</sup>	
Lead	Support
MBIE	NZIC, MFAT, NZ Police, NZ Customs, NZDF, GNZ, NMCC, MOH
Operational Delivery <sup>10</sup>	
Lead	Support
MBIE (INZ)	MFAT, NZDF, NZ Customs, NZ Police, NMCC, RCCNZ, MNZ

## Response

Policy / Strategy	
Lead	Support
MBIE (INZ)	DPMC, MOD, NZDF, MFAT, NZ Customs, NZIC, MOH
Intelligence	
Lead	Support
MBIE	NZIC, MFAT, NZ Police, NZ Customs, NZDF, GNZ, NMCC, MOH
Operational Delivery	
Lead	Support
MBIE (INZ)	NZDF, NZ Customs, NZ Police, NMCC, RCCNZ, MOD, Health, MPI, Justice, Corrections, MSD, Oranga Tamariki, MFAT, MNZ

8. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

9. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

10. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Biosecurity

### Introduction

Agricultural and environmental pests, animal and plant disease-causing organisms, and their vectors, present a biosecurity threat to New Zealand. They may cause economic losses and unwanted environmental impacts, and be harmful to human health and damage our sociocultural values.

### Key points

Climatic shifts are altering distributions of organisms globally. These changes will also alter how likely it could be that an exotic organism can establish in New Zealand and how widely it might spread. Wind and oceanic currents (and a small number of migratory species regularly visiting New Zealand) will always be an uncontrolled route of exposure to new exotic organisms.

However, increasing volumes of trade and tourism elevate the frequency and severity of New Zealand's exposure to human sources of biosecurity risk, including accidental and unanticipated spread. New Zealand is currently free from a number of specific pests and diseases of international concern.

Our export trade benefits significantly because trading partners recognise New Zealand's animal, aquaculture, plant and forestry products pose no risk to their own biosecurity status. In the absence of these and other pests and diseases, New Zealand production costs are lower, quality higher, and it is easier to gain the premium for origin accredited produce.

New Zealand has a comprehensive system for biosecurity risk assessment, border protection, pest and disease surveillance, and credible responses to new incursions and pests that are already established. These measures involve government, industry and the wider public. Social factors such as consumer demand, recreational activities and cultural practices also have a significant influence on biosecurity risk for New Zealand.

These risks are faced at the border, but also impact how a new pest or disease may establish and spread within New Zealand if it arrives.

### Drivers

New Zealand's environments – marine and land, natural and farmed – are highly complex interdependent systems. They are further linked to global environments and international supply chains. New pests and diseases may disrupt these systems with widely varying ranges of severity, timescale and geographic extent.

## ISSUES AND THREATS

## Potential consequences for New Zealand

Some organisms will have little impact if they arrive and persist. Other organisms will not be capable of surviving and populating in New Zealand habitats, or existing management systems for other pests eliminate any impact. But impacts will be felt if production losses are incurred, new regimes for control must be implemented, conservation values are damaged, or human health is affected. The Ministry for Primary Industries also maintains assurances to trading partners, and these may be affected if unwanted organisms of concern to trading partners establish.

A biosecurity response to a new pest or disease may incur high operational costs and additional consequential impacts that the pest itself might not otherwise have caused directly.

Specific irreversible consequences of incursions can include accelerated loss of a threatened endemic species.

➤ **The Ministry for Primary Industries also maintains assurances to trading partners, and these may be affected if unwanted organisms of concern to trading partners establish**

## Legal aspects

**Legislation:** The following Acts empower the Director-General, Chief Technical Officers, warranted inspectors and other officials to manage biosecurity threats.

**The Biosecurity Act 1993:** provides the legal framework for MPI and others to help keep harmful organisms out of New Zealand and respond if any do make it into the country.

**Hazardous Substances and New Organisms Act 1996:** this Act's purpose is to protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms.

**Resource Management Act 1991:** sets out how New Zealand should manage its environment.

Also relating to biosecurity is the Marine Protection Rules Part 300. The purpose of this rule is to prevent, minimise and ultimately eliminate the risk to the environment, human health, property, and resources arising from the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediment. Part 300 gives effect to the provisions of the International Convention for the Control and Management of Ships' Ballast Water and Sediments 2004.

## Risk reduction, readiness, response and recovery

### Risk reduction

Activities to reduce the chance of arrival or establishment of risk organisms. Government agencies work together with international trading partners, the private sector and travellers to keep biosecurity risks offshore. At the border, MPI has oversight of passengers and importers taking the necessary steps to minimise risk. Within New Zealand, research, industry biosecurity measures, education, and social marketing all reduce the establishment, spread or impacts of pests and diseases.

### Readiness

Activities to ensure New Zealand is ready to manage a biosecurity response. These include developing readiness and response plans, running response exercises, and building the required capacity and capability across the system. It also includes surveillance to detect risk organisms, and changes in the extent of established pests.

### Response

Investigation and identification (if possible) of suspected risk organisms. Options to respond to a pest/disease post-border include eradication, slowing spread, standing down, self-managed, and long-term management. Responses are evaluated with lessons fed back into the system.

### Recovery

Activities that help individuals and communities recover from a significant biosecurity incursion. This includes tax relief, welfare measures, grants to rural support trusts, and/or restoration of market access. It may also include long-term changes to land use and/or production systems.

## Stakeholder coordination

Policy / Strategy <sup>11</sup>	
Lead	Support
MPI	DPMC, MOD, MFAT, MFE, MNZ
Intelligence <sup>12</sup>	
Lead	Support
MPI	NZIC, NZ Police, NZ Customs, NZDF, GNZ, NMCC, MNZ
Operational Delivery <sup>13</sup>	
Lead	Support
MPI	NZDF, NZ Police, EPA, MNZ, NMCC, MNZ

### Public information management

In a major event, the MPI communications team would work with agencies involved in the event e.g. Customs, NZ Police to coordinate AoG communications.

11. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

12. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

13. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Illegal, unregulated and unreported fishing

### Introduction

Illegal, unregulated and unreported (IUU) fishing comes in several forms and is defined in different ways in various contexts. The definition in the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (2001) is a commonly used reference point:

Illegal fishing is where:

- national or foreign vessels fish in a country's waters without their permission, or in breach of its fishing laws and regulations vessels flying a flag of a country that is a member of a relevant regional fisheries management organisation (RFMO) or Regional Fisheries Body (RFB) breach the conservation and management measures of the RFMO or RFB
- vessels breach national laws or international obligations, including those of an RFMO/RFB.

An example of New Zealand preventing illegal activity was the presentation of information to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) that was obtained through an NZDF overflight of illegal fishing operations in the 2019/2020 season by a Russian-owned fishing vessel, *Palmer*. Although Russia blocked the vessel being added to CCAMLR's illegal, unreported and unregulated vessel list, the vessel has not participated in CCAMLR fisheries since.



Fishing Vessel *Palmer* (courtesy of NZDF)

Unregulated fishing refers to:

- activities in the area covered by a relevant RFMO that are conducted by vessels without nationality or by those flying the flag of a state not party to that RFMO, or by a fishing entity in a manner that is not consistent with or contravenes the conservation and management measures (CMM) of that RFMO
- fishing in areas and for fishstocks where there are no applicable CMMs in a manner inconsistent with responsibilities for the conservation of living and marine resources under international law.

Unreported fishing refers to:

- activities which have not been reported or have been misreported to the relevant national authority in contravention of national laws and regulations
- activities that have been undertaken in the area of competence of a relevant RFMO/Regional Fishery Body (RFB) and have not been reported or have been misreported in contravention of the reporting procedures of that RFMO/RFB.

## Key points

The multifaceted nature of IUU fishing, its varying drivers, the complexity of jurisdictional arrangements and the ability for IUU operators to exploit weaknesses in regulatory and compliance systems require collective engagement by flag states, coastal states, port states, inspection states, RFMOs/RFBs, and market states.

New Zealand contributes to global efforts to tackle IUU fishing within a multilateral framework of binding and non-binding international instruments, regional legal structures, and domestic law. In this context, New Zealand's efforts to combat IUU take place in the performance of distinct roles:

- As a state participant in rule-making bodies such as the United Nations General Assembly; Food and Agriculture Organization (FAO); World Trade Organization (WTO); and relevant RFMOs. We also cooperate with other countries in the development and sharing of best practices (e.g. in APEC and OECD) and intelligence and wider information (e.g. Interpol).
- As a state engaged in Pacific regional cooperation and development, including through the Pacific Islands Forum (PIF) and its Forum Fisheries Agency (FFA).
- As a **coastal state**, responsible for regulating, monitoring and enforcing domestic fisheries law within our waters and ensuring the integrity of our EEZ against IUU fishing undertaken by foreign flagged vessels.
- As a **flag state**, responsible for exercising control over ships entitled to fly the New Zealand flag, and ensuring they comply with relevant international rules, including the conservation and management measures of relevant RFMOs/RFBs.
- Exercising control of New Zealand nationals who are in charge of New Zealand and foreign flagged vessels.
- As an **inspection state**, conducting high seas boarding and inspection.
- As a **port state**, reviewing and verifying the compliance with international fisheries regulations of vessels seeking entry to port.
- As a **market state**, ensuring IUU caught fish is not available for sale.

**ISSUES AND THREATS**

## Context

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IUU fishing can severely damage ecosystems through unsustainable exploitation of fish stocks and non-fish bycatch. In some cases, the use of destructive fishing gear and methods can also destroy habitats. IUU fishing causes economic harm to legal fishers and supporting industries such as fish processors, port facilities and transportation through increased costs, loss of revenue and ultimately unemployment. This harm extends to coastal states through diminished economic returns from their fisheries resources with reduced income from vessel licensing and permitting, levies, taxes and landing charges. This is most acutely felt in developing countries where fisheries are a key pillar for economic security and prosperity.

IUU fishing, left unchecked, undermines legitimate fisheries management and governance frameworks, eventually eroding trust in systems and the governing authorities. Global studies have drawn links between IUU fishing and associated crime such as trafficking in drugs, firearms and humans; tax evasion; racketeering; fraud and money laundering.

## The size of the problem

Estimation is difficult but the most comprehensive study to date (2009) estimates the total global value of IUU fishing losses at between \$USD10 – 23.5 billion annually, representing between 11 and 26 million tonnes of fish.

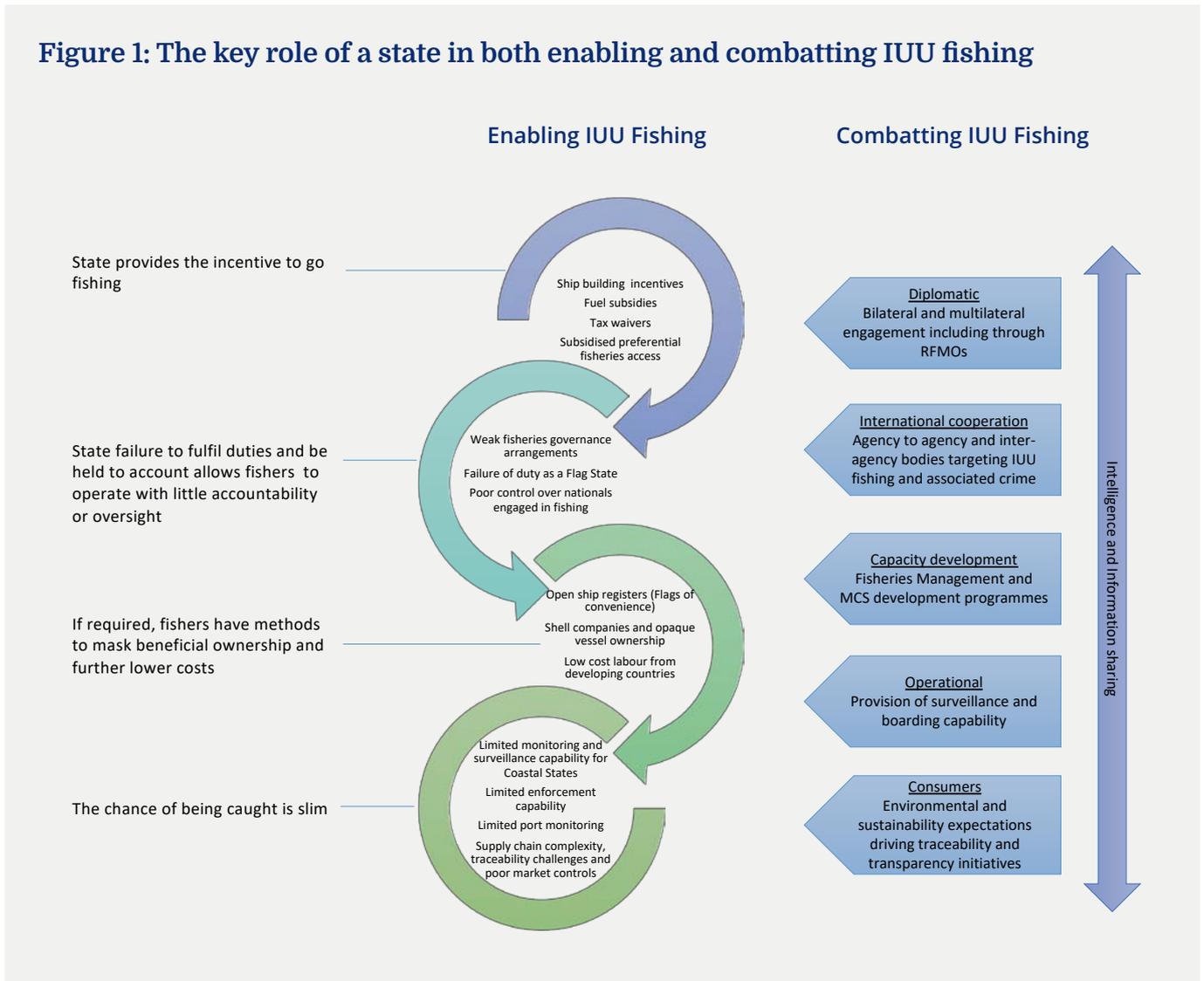
In New Zealand's maritime area of interest, the Forum Fisheries Agency (FFA) released the findings of an IUU quantification study of the critically important Pacific tuna fishery. This study estimated the annual value lost to IUU fishing was \$USD333 million during 2017-2019. Of note, this represented a drop from an estimate of \$USD616 million in the previous study covering 2010-2015. While partly attributed to improved data collection and quality, the FFA noted the important role strong regional monitoring, control and surveillance cooperation has had on this reduction.

## Drivers

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The drivers of IUU fishing are both multifaceted and inter-related involving the commercial goals of a fishing industry in maximising profit and minimising costs, and the role of the state as a flag, coastal, port and/or market state.

**Figure 1: The key role of a state in both enabling and combatting IUU fishing**



## ISSUES AND THREATS

## Legal aspects

### Key binding international instruments

The **United Nations Convention on the Law of the Sea** (UNCLOS) is the overarching legal framework for law of the sea. Importantly it:

- guarantees coastal states' sovereign rights to the fisheries resources within their exclusive economic zones (EEZs) from 12nm up to 200nm from the coast;
- guarantees to all states the freedom of fishing in the high seas (all areas beyond the national jurisdiction of coastal states);
- requires states to cooperate to ensure the conservation of the living resource of the high seas; and
- requires states to exercise control over ships entitled to fly their flag.

As a result, while coastal states may regulate fishing in their EEZs, and enforce their national laws to prevent IUU fishing in their EEZs, fisheries regulation and the prevention of IUU in the high seas is considerably more complicated.

A framework of national and international organisations, laws and guidance has evolved around the sustainable use of fisheries resources in both the high seas and EEZs of coastal states.

Central to this framework are regional fisheries management organisations (RFMOs) and similar regional arrangements. RFMOs are multilateral bodies made up of states that share an interest in managing and conserving fish species or fish stocks in a particular region. However, RFMOs can only bind those who choose to become parties to the relevant treaty establishing the RFMO. Non-parties are not bound by the conservation and management measures adopted by the RFMO. Two international treaties seek to address this problem.

### The **FAO Compliance Agreement 1993**

strengthens the high seas fishing provisions in UNCLOS by increasing flag state responsibility for fishing vessels that operate in the high seas. It requires states to satisfy themselves that they can exercise effective control over all vessels fishing in the high seas before authorising them to do so.

The **United Nations Fish Stocks Agreement 1995** (UNFSA) enhances the influence and responsibility of RFMOs. It provides that a party to the UNFSA:

- must cooperate to establish a new RFMO where there is no existing RFMO regulating a particular straddling fish stock or highly migratory fish stock;
- must join a relevant RFMO or agree to apply the CMMs of that RFMO if it wishes vessels flying its flag to participate in a regulated fishery;
- is prohibited from accessing fisheries regulated by an RFMO if it refuses to join the RFMO or otherwise refuses to apply its CMMs; and
- consents to the boarding and inspection of vessels flying its flag by parties to the RFMO when they are participating in the fishery.

Collectively, the framework of UNCLOS, the FAO Compliance Agreement, and the UNFSA mean that RFMOs have legal competence to regulate their fisheries in a manner enforceable against all vessels flying the flag of a party to the UNFSA, whether or not that party is also member of the relevant RFMO.

The **Port State Measures Agreement 2009** (PSMA) supplements the agreements above and was the first international agreement designed specifically to prevent, deter and eliminate IUU fishing. The PSMA requires port states (states which receive foreign flagged vessels into their ports) to take risk-based measures to deter IUU fishing. One of the key strengths of the PSMA is through information exchange amongst the parties which have ratified the Agreement. Currently, the FAO is developing the Global Information Exchange System (GIES) to allow all parties to readily exchange port inspection reports and any associated information on non-compliance.

The PSMA ultimately seeks to ensure that vessels which engage in IUU fishing are denied port access or services wherever they may go. In doing so, it serves two purposes: it provides a further layer of inspection and checks for vessels; and it fills an enforcement gap in relation to vessels flagged to states that are not parties to relevant RFMOs or the UNFSA.

## Domestic implementation

New Zealand's high seas fishing regime is set out in **Part 6A of the Fisheries Act 1996**, which implements the United Nations Fish Stocks Agreement 1995 and the FAO Compliance Agreement 1993 and provides the framework for implementing CMMs adopted by RFMOs.

### New Zealand's flag state duties

All New Zealand flagged vessels fishing on the high seas must have a permit. A high seas permit issued to a vessel operator contains conditions implementing the rules of RFMOs. The binding provisions range from data collection, carrying of observers, reporting to satellite monitoring systems, protected species bycatch mitigation

and the tacit acceptance of other relevant states wishing to board and inspect the vessel on the high seas. Breaches of the high seas fishing permit can attract a maximum fine of \$100,000 and may result in permits not being granted to that operator for up to 3 years. Fishing on the high seas without a permit attracts a maximum fine of up to \$250,000.

In addition to the high seas fishing permit, New Zealand flagged vessels fishing in the Convention Area regulated by CCAMLR require a permit issued under the **Antarctic Marine Living Resources Act 1981**.

### Control of New Zealand nationals

**Section 113A of the Fisheries Act 1996** provides for the prosecution of New Zealand nationals should they be found to have been in the control of a vessel that has fished illegally in another jurisdiction. Under section 113E, New Zealand nationals can also be prosecuted for fishing illegally on the high seas using a foreign flagged vessel. This gives the regulator, MPI, 'global reach' to act against a New Zealand national regardless of where in the world the offending took place.

### New Zealand EEZ and IUU Fishing

**Part 5** "foreign licensed access" and **Part 6** "fishery access" of the **Fisheries Act 1996** set out the provisions by which fishing can occur in the NZ EEZ. This includes the requirements for licensing and permitting of fishing vessels and fish carriers including both the taking and possession of fish in the EEZ. Unlicensed, illegal fishing by a foreign-flagged vessel can attract a maximum fine of \$500,000. Fishing in breach of foreign license conditions or without a fishing permit can result in a fine of up to \$250,000 whilst breaches of fishing permit conditions attract a maximum of \$100,000.

## ISSUES AND THREATS

### Risk reduction, readiness, response, and recovery

New Zealand's multifaceted approach to combatting IUU, as captured in Figure 1, seeks to reduce the overall risk of IUU and meet our needs for readiness, response and recovery.

This begins with negotiating and continually improving robust international instruments, both binding and non-binding. These instruments are implemented through domestic policy and legislation, enabling operational elements to discharge both our international obligations and domestic controls.

In closing the net further on global IUU fishing, New Zealand also works closely to support other countries to enhance their readiness and response to IUU fishing and, where they have been particularly affected, their recovery from the effects of IUU fishing.

### International activity

New Zealand is a member of three RFMOs:

**Western and Central Pacific Fisheries Commission** (WCPFC), which is responsible for the management of highly migratory fish stocks in the EEZs and high seas of the western and central Pacific region (home to 50 percent of global tuna stocks). It sets CMMs for the shared management of four key tuna species (skipjack, yellowfin, bigeye and albacore) in the Convention Area, and it manages Pacific bluefin tuna, swordfish and sharks, and considers the impact of fishing on non-fish species, including seabirds.

**South Pacific Regional Fisheries Management Organisation** (SPRFMO) which is responsible for the management of non-highly migratory fisheries (i.e., non-tuna) and the safeguarding of marine ecosystems in the high seas of the South Pacific (not areas of national jurisdiction or EEZs). It sets CMMs for species such as orange roughy, toothfish, alfonsino and bluenose, as well as jack mackerel and jumbo flying squid. Some of these high seas stocks straddle the EEZs of coastal states, including New Zealand, so require compatible management measures in both areas.

**Commission on the Conservation of Southern Bluefin Tuna** (CCSBT) is responsible for the management of southern bluefin tuna throughout its global distribution, including New Zealand's EEZ.

New Zealand is also member of the **Commission for the Conservation of Antarctic Marine Living Resources** (CCAMLR). CCAMLR is not an RFMO though performs similar functions within the Antarctic Treaty System and is sometimes referred to as a Regional Fisheries Body (RFB). It is responsible for setting rules for the conservation, including rational use, of Antarctic marine living resources. The main fisheries in the Convention Area are toothfish and krill.

New Zealand is part of the **Quadrilateral Defence Relationship** (QUADs), which also includes the United States, Australia and France. The QUADs meet annually with the FFA to plan at the operational and strategic level what activities will be undertaken in support of Pacific Island countries in their key objective of combatting IUU fishing.

## Stakeholder coordination

Policy / Strategy <sup>14</sup>	
Lead	Support
MPI	DPMC, MOD, MFAT, DOC
Intelligence <sup>15</sup>	
Lead	Support
MPI	NZIC, NZ Police, NZ Customs, NZDF, GNZ
Operational Delivery <sup>16</sup>	
Lead	Support
MPI	NZDF, MNZ, NMCC

New Zealand's activity to combat IUU is guided by the New Zealand Plan of Action to Prevent, Deter and Eliminate Illegal Unregulated and Unreported Fishing and the Maritime Security Strategy. Efforts are coordinated across agencies, including the Ministry for Primary Industries, the Ministry of Foreign Affairs and Trade, the Ministry of Defence, the National Maritime Coordination Centre, the New Zealand Defence Force, and the Department of Conservation:

The **Ministry for Primary Industries (MPI)**:

- leads on the regulation of all fishing activities within New Zealand waters and by New Zealand flagged vessels and nationals beyond the EEZ.
- leads on negotiation and engagement within regional fisheries management organisations (RFMOs).
- leads New Zealand's participation in fisheries issues in multilateral and regional fora such as the FAO, OECD, and APEC.
- provides subject matter expertise in the planning and execution of Pacific and Southern Ocean fisheries patrolling; and
- maintains situational awareness of adjacent high seas to detect any IUU fishing by foreign flagged vessels.

14. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

15. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

16. Agency responsible for leading and coordinating the operational (on the ground) response.

## ISSUES AND THREATS

### The **Ministry of Foreign Affairs and Trade** (MFAT):

- leads New Zealand's participation in fisheries issues in the United Nations General Assembly
- leads negotiations on fisheries subsidies in the WTO
- leads New Zealand's participation in the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)
- provides New Zealand Aid funding support to build capacity for eliminating IUU in the Pacific region
- leads advice to government on compliance with New Zealand's obligations, and the enforcement of New Zealand's rights, under international law; and
- supports MPI in New Zealand's participation in RFMOs.

The **Department of Conservation** provides subject matter expertise on minimising the environmental impacts of fishing in New Zealand and international fisheries.

### ➤ **The New Zealand Defence Force (NZDF) provides air surveillance and naval patrols**

The **Ministry of Defence** is the principal civilian adviser on defence policy including maritime security issues. It leads on the development of defence assessments which include a review of different options for Government to achieve policy goals, which may include fisheries security. It also leads on the procurement, replacement and repair of significant military capabilities which may be used to conduct maritime surveillance operations.

The **New Zealand Defence Force** (NZDF) provides air surveillance and naval patrols throughout New Zealand's EEZ, the wider Pacific Region and the Southern Ocean, to conduct resource monitoring and protection activities, support Pacific Island countries to maintain security of their respective EEZs, and support FFA member states to meet their objectives.

The **National Maritime Coordination Centre** (NMCC) coordinates maritime patrol tasking for civilian agencies. The NMCC is co-located at Headquarters Joint Forces New Zealand and reports to MSOC for operational and strategic oversight.

#### **P8-A aircraft**



Courtesy of NZDF

## ➤ Illegal or poorly regulated exploitation of non-living resources

### Introduction

The illegal or poorly regulated exploitation of non-living resources within New Zealand's maritime area of interest may pose an increased threat to New Zealand's national interests as the exploitation of these resource becomes more viable.

This includes illegal exploitation of oil, gas, mineral and other non-living resources on the seabed and subsoil within New Zealand's EEZ and continental shelf as well as those of the Realm nations.<sup>17</sup> New Zealand's maritime area of interest includes the Ross Sea and parts of the Southern Ocean.

### Key points

Existing activities to exploit oil, gas, minerals, and other non-living resources in New Zealand's EEZ and continental shelf are well managed under existing regulatory frameworks.

Agencies have a good understanding of their respective roles and responsibilities under existing frameworks including in relation to Compliance, Monitoring, and Enforcement (CME).

It seems likely that existing activities present the most immediate risk to New Zealand's national interest (e.g., by causing environmental damage such as oil spill). Illegal/unplanned exploitation activities (e.g., illegal mineral exploitation) would be difficult to undertake given the technological challenges associated with operating in the open ocean.

Exploitation of non-living mineral resources (particularly metals) in New Zealand's maritime area of interest may become more viable in the future as demand for green technology increases and land-based sources of minerals become scarcer. These activities present new and poorly understood threats to the marine environment.

Regulatory frameworks will need to be updated or developed to manage novel risks and industries, and to ensure confidence in regulatory processes. These frameworks will also need to be supported by robust systems for conducting CME in the EEZ, continental shelf and beyond.

The Southern Ocean, including the Ross Sea, is governed by the instruments of the Antarctic Treaty System, which prohibit mineral resource activity indefinitely, other than scientific research. The Protocol on Environmental Protection designates Antarctica as a 'natural reserve, devoted to peace and science.'

### Context

The extraction/exploitation of non-living resources in New Zealand's EEZ and continental shelf is limited to oil and gas extraction, though two proposals to mine the seabed for mineral deposits (phosphate and iron) have previously been considered by the Environmental Protection Authority (EPA).<sup>18</sup>

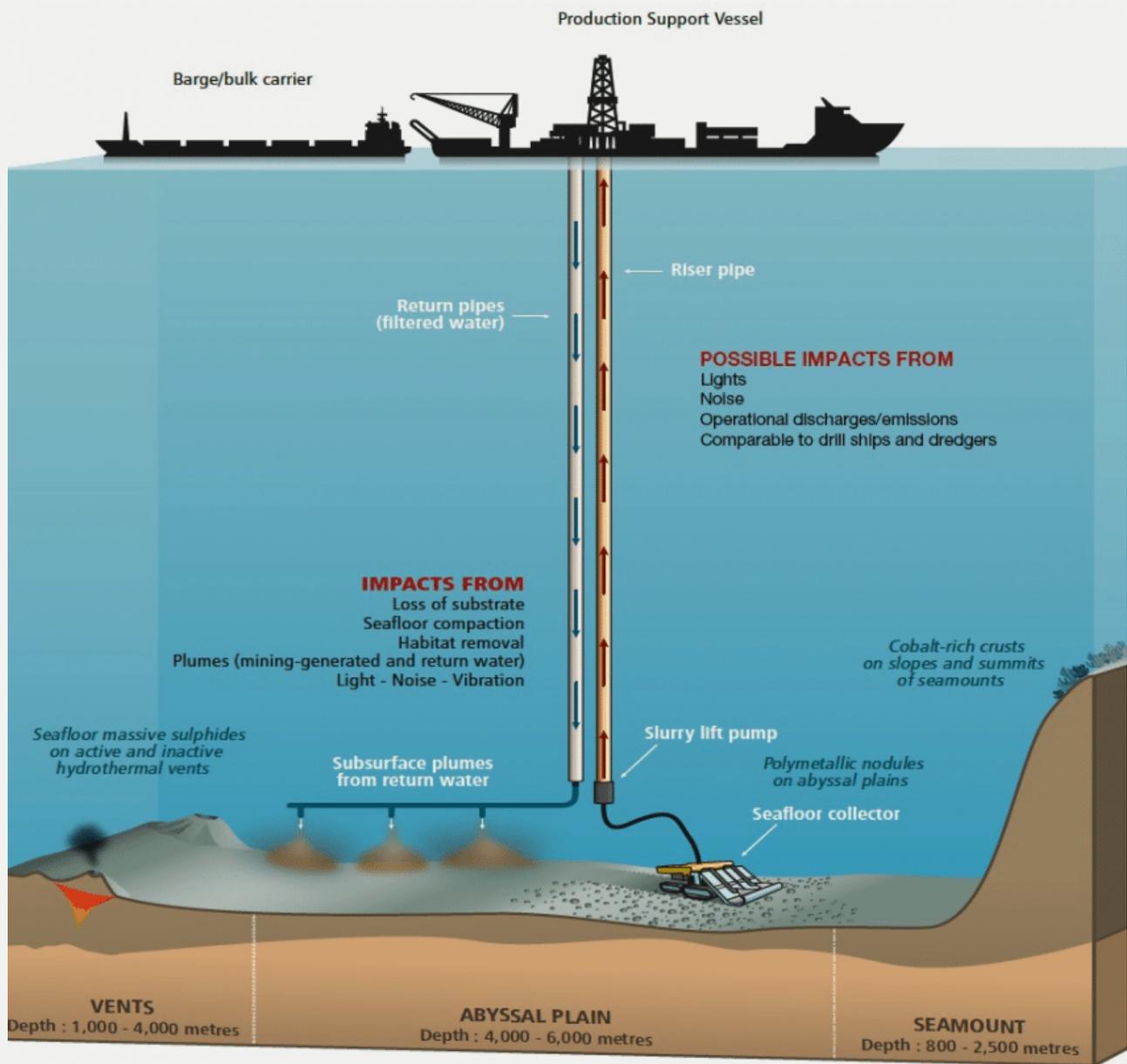
There is an increased interest in the exploitation of non-living resources at sea including minerals desired for 'green' technology (e.g., metals) and alternative energy sources such as gas hydrates.

17. Tokelau, Cook Islands and Niue.

18. No proposals for seabed mining have been approved in New Zealand to date. However, the proposal to mine iron sand off the coast of Taranaki was initially granted by an EPA appointed Decision-making Committee (DMC) on its second attempt (having previously been refused). The decision to grant consent was subsequently overturned by the Supreme Court, which directed the proposal back to the EPA for reconsideration. The EPA has now appointed a new DMC to reconsider Trans-Tasman Resources Limited's iron sand proposal.

ISSUES AND THREATS

### Ship seabed exploitation system



Exploitation of non-living resources has the potential to cause serious harm to the marine environment if these activities are not managed in a precautionary way.

Regulatory frameworks to manage exploitation of mineral resources are being developed, or have been developed, in a few countries including in New Zealand and some Pacific Island countries (including the Cook Islands).

Negotiations at the International Seabed Authority (ISA) on a Mining Code to govern seabed mining in areas beyond national jurisdiction are ongoing. A two-year deadline for these negotiations expired on 9 July 2023. New Zealand considers that no seabed mining should occur in these areas in the absence of a code that provides strong environmental rules backed by robust science.

There is also increased awareness and opposition to some of these proposed activities, including deep-sea mining, from environmental NGOs and civil society. In May 2023, the Government announced a select committee inquiry into the issue of seabed mining in New Zealand, which may inform whether any regulatory changes are needed.

## Drivers

The transition to a low carbon economy currently relies on the use of 'green' technology which often requires large amounts of metals and rare earth elements. Alternative sources for these minerals and resources will likely be required if land-based sources become scarcer or as countries seek to expand their own economies or secure supply.

Pacific Islands have large quantities of non-living deep-sea resources which may offer significant economic opportunities and the potential to improve living standards.

In New Zealand, drivers are less immediate but there are a few areas where mineral extraction has been proposed and may be targeted in the future.

## Potential consequences for New Zealand

For existing activities (oil and gas extraction) the potential consequences associated with poor/illegal practice and regulation are well documented (for example, the Deepwater Horizon spill in the Gulf of Mexico).

For novel and emerging industries there is the potential for serious environmental damage (with potentially flow-on economic impacts on fisheries, for example), and some of these effects can be difficult to predict and manage. Many of the environments in which these activities may occur are vulnerable to disturbance and may not recover for significant periods of time (or at all).

New Zealand may also miss out on significant economic opportunities if regulatory frameworks are inadequate, or perceived to be inadequate, in their approach to managing novel and emerging industries. For example, frameworks may not appropriately manage risks associated with novel activities or may be inflexible or inefficient in their approach to managing new industries.

**ISSUES AND THREATS****Legal aspects**

In New Zealand, the **Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act** (EEZ Act) regulates the environmental aspect of activities in the associated areas.

Rights to mine minerals or petroleum are also granted under the **Crown Minerals Act** (CMA).

Internationally, the **ISA** regulates deep sea mining in areas beyond national jurisdiction (high seas/international waters). New Zealand is engaging actively in negotiations taking place at the ISA on a regulatory framework for mineral exploitation. New Zealand considers that no seabed mining should take place until the ISA has adopted a Mining Code, supported by robust science, that ensures the effective protection of the marine environment. Countries will look to any ISA exploitation framework (once finalised) when developing their domestic regimes, as the United Nations Convention on the Law of the Sea requires that domestic rules to manage pollution from seabed activities within national jurisdiction shall be no less effective than international rules.

In the Pacific Islands, the Cook Islands are developing a regulatory framework for mineral exploitation in their EEZ.

The entire area south of 60 degrees South Latitude is governed by the Antarctic Treaty and the Protocol on Environmental Protection, which prohibits all activity relating to mineral resources, other than scientific research. This international law is implemented into New Zealand's legislation, and also requires formal exchange of information and environmental impact assessments for all activities in the Antarctic.

**Potential judicial consequences**

The EEZ Act contains offences and penalties for undertaking unauthorised activities in the EEZ – illegal exploitation of mineral resources would constitute an offence under the EEZ Act and the CMA.

## Risk reduction, readiness, response, and recovery

### Risk reduction

#### Ensuring legislative frameworks are fit for purpose

Ensuring that our own domestic frameworks are up to date with existing best practice (eg. EEZ Act). A select committee inquiry will consider New Zealand's legislative settings as they relate to seabed mining, including whether any changes are needed.

Seeking to influence the development of international legislation through relevant UN bodies like the ISA. This, in turn, may influence what is translated through domestic regimes.

Supporting, on an "if asked" basis, Pacific Island countries to develop robust legal frameworks, governance structures and environmental protections.

Proactively supporting deep-sea science in the Pacific to understand effects on marine ecosystems, habitats and species. Our engagement in the Pacific is guided by the precautionary approach and a set of specific principles focused on sustainable management.

Continuing to reaffirm the prohibition on mineral resource activity in Antarctica.

#### EPA manages activities in the EEZ and Continental Shelf

The Environmental Protection Authority (EPA) is responsible for managing the effects of specified restricted activities (*most activities involving exploitation of non-living resources*) on the environment in the Exclusive Economic Zone and continental shelf under the EEZ Act.

The EPA considers applications for marine consents, monitors compliance, carries out enforcement, and promotes public awareness of the requirements of the EEZ Act and associated regulations.

The EPA has a multi-disciplined team of warranted enforcement officers responsible for compliance, monitoring, and enforcement of requirements under the EEZ Act, regulations, and consent conditions. Principles for how the EPA monitors compliance are outlined in the EEZ Compliance Monitoring Policy.<sup>19</sup>

Some consent conditions require the EPA to review plans, results and reports that are submitted by consent holders, and either approve or decline these submitted documents.

### Readiness

#### Monitoring of activities

Monitoring is undertaken by reviewing information that is routinely provided from offshore operators to meet their consent and regulatory requirements. The EPA uses powers under the EEZ Act to undertake inspections, periodically visiting onshore offices and heading offshore to visit structures and ships working in the EEZ.

The EPA takes a risk-based approach to determine the level of planned monitoring. The plan is reviewed regularly to re-evaluate risks and identify priority areas, where extra focus may be warranted.

#### Engagement with industry

The EPA promotes compliance through regular engagement with the industry and other regulators.

19. <https://www.epa.govt.nz/assets/Uploads/Documents/EPA-Publications/EPA-Regulatory-Compliance-Policy.pdf>

**ISSUES AND THREATS**

 **Response**

The EPA is associated with the National Maritime Coordination Centre, including NZDF, NZ Police and Customs (aircraft and surface vessels). The use of response platforms is conditional upon availability, location, and prioritisation.

The EPA operates a 24/7 duty roster set up for maritime incidents to be reported at any time and an EPA response would occur from the point of notification.

**Investigation**

When non-compliance is detected, the EPA investigates and works with operators to ensure the environment is protected from pollution, and a return to compliance is prioritised.

**Enforcement**

In some situations, the EPA may use enforcement tools to direct compliance or penalise breaches. This action is taken after careful consideration of the desired outcome, and by following guidance in the EPA's compliance policy document.

 **Recovery**

If activities result in oil spill, Maritime New Zealand (MNZ) is responsible for the national response using the three-tier response system.

WorkSafe New Zealand holds responsibility for well integrity at oil and gas facilities.

EPA holds primary responsibility in the event of hazardous substance spills that do not involve oil.

**Stakeholder coordination**

<b>Policy / Strategy<sup>20</sup></b>	
<b>Lead</b>	<b>Support</b>
MFE	MBIE, MFAT, MOD, EPA, NZ Police, MNZ
<b>Intelligence<sup>21</sup></b>	
<b>Lead</b>	<b>Support</b>
EPA	NMCC, MFAT, MBIE, GNZ, NZ Police
<b>Operational Delivery<sup>22</sup></b>	
<b>Lead</b>	<b>Support</b>
EPA	NMCC, NZ Police, NZDF, MNZ, local authorities

The table above is a guide only with each incident likely to require different agency contributions. Regardless, key entities to support any incident are the Rescue Coordination Centre with its focus on safety at sea and the National Maritime Coordination Centre for the provision of situational understanding and maritime security asset coordination. Incidents occurring outside New Zealand's Extended Continental Shelf are likely to also require MFAT involvement.

**Public information management**

In a major event, the communications teams from the EPA, MNZ, WorkSafe & MBIE are likely to work together.

20. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.  
 21. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.  
 22. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Threat to protected species

### Introduction

New Zealand has 15 times more sea area than land. Its marine habitats are diverse, and include sheltered inlets, estuaries, reefs and the open ocean. Its remoteness and extent of marine environment, ranging from subantarctic to subtropical, make it a global hotspot for marine biodiversity. Of the 12,820 described marine species, over half are endemic (Gordon et al. 2010).

Protected marine species in New Zealand include seabirds, marine mammals, reptiles and a range of fish and invertebrates protected under the Wildlife Act. A number of these protected species are also threatened, with some having experienced significant historical decline in abundance and distribution as a result of human impacts, and some continuing to experience pressure from activities both on land and at sea.

Using the New Zealand Threat Classification System, of the 1,552 marine species that have been assessed for their conservation status, 55 species (4%) are 'threatened' and a further 504 species (32%) are 'at risk', while nearly half (730 species; 47%) are 'data deficient', meaning there is not enough information to make an informed assessment of conservation status.

An important feature of New Zealand's maritime area is its offshore islands. Offshore islands host many endemic 'threatened', or 'at risk' species. Many of these species have been isolated from the mainland and are only able to survive in our offshore predator-free islands where they are protected from invasive/introduced pests. Of the nearly 11,000 terrestrial species assessed, 811 (7%) are ranked as 'threatened' and 2,416 (22%) as 'at risk'.

### Proportion of New Zealand's indigenous species found nowhere else on Earth

**72%**   
OF BIRDS (LAND,  
FRESHWATER AND MARINE)

**84%**   
OF VASCULAR PLANTS  
(LAND AND FRESHWATER)

**81%**   
OF INSECTS  
(LAND AND FRESHWATER)

**7%**   
OF MARINE MAMMALS

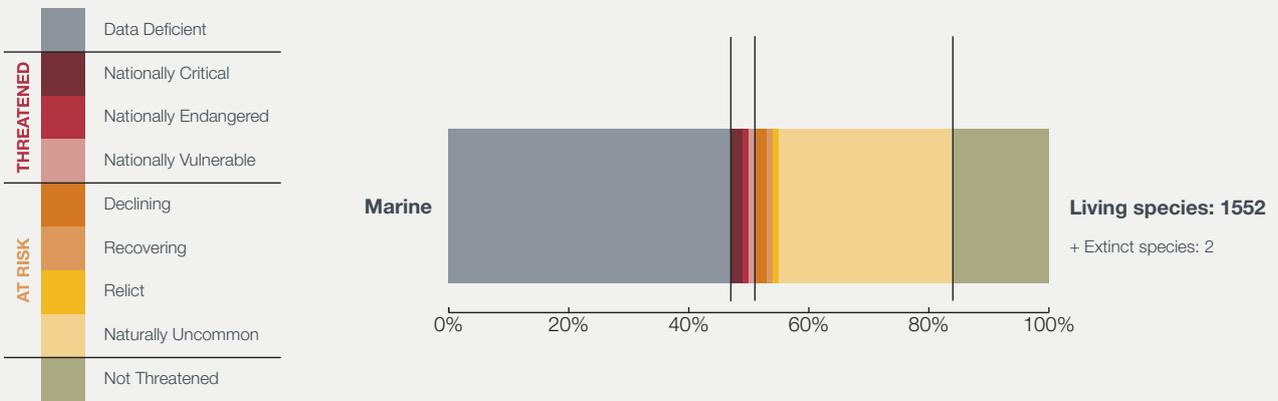
**88%**   
OF FRESHWATER FISHES

**100%**   
OF REPTILES, FROGS, BATS  
(LAND AND FRESHWATER)

Biodiversity in Aotearoa – an overview of state, trends and pressures (doc.govt.nz). Data does not include extinct species. Sources: Macfarlane et al. (2010); Gordon (2013); NZTCS (2019)

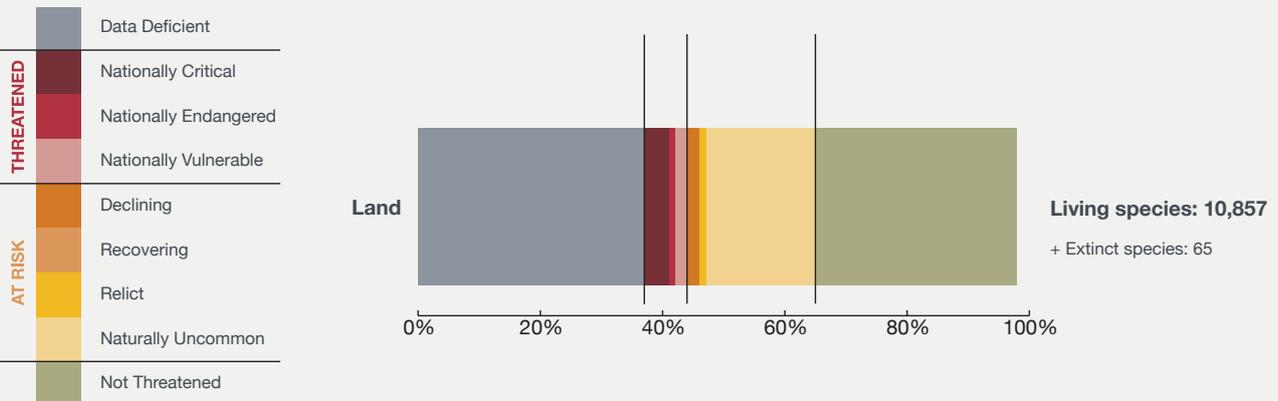
ISSUES AND THREATS

### Conservation status (NZTCS) of resident native marine species assessed under the NZTCS



Biodiversity in Aotearoa – an overview of state, trends and pressures (doc.govt.nz).  
Data source: NZTCS (2019)

### Conservation status (NZTCS) of resident native land species assessed under the NZTCS



Biodiversity in Aotearoa – an overview of state, trends and pressures (doc.govt.nz).  
Data source NZTCS (2019)

## Threats

Climate change presents the biggest risk to the New Zealand marine environment, but protected marine species are at risk from a range of activities on land and at sea. On land, introduced predators (such as rats and cats), coastal development and human-related disturbance (such as from vehicles) can present a threat to marine species that must come ashore to rest, breed or raise young. Marine debris, both on the coast and in the sea, is a significant threat to marine species through entanglement or ingestion. Disease can present a significant risk to some species. At sea, fishing (including incidental bycatch and removal of prey species), boat-strike, tourism, sedimentation (run-off from the land) and oil spills are a particular threat.

It is likely that the impact of these stressors will be exacerbated by climate change directly (e.g. ocean acidification, sea level rise, increased extreme events) and indirectly as a result of climate adaptation initiatives (e.g. those undertaken to ensure ongoing food and energy security).

## Consequences

Māori have a diverse range of rights and interests in the marine environment, including cultural and commercial rights under Treaty settlements (such as rights to fisheries and aquaculture), and rights under the Marine and Coastal Area (Takutai Moana) Act 2011. The marine environment is core to Māori culture and some marine species are particularly important from a cultural perspective, including through whakapapa.

As a maritime nation, the marine environment is a key part of the New Zealand identity. Most New Zealanders live within 5km of the sea and the marine environment provides a source of recreation and supports wellbeing.

Biodiversity underpins many of the ecosystem functions/services that we rely on for economic prosperity. Our marine environment supports our economy and provides jobs, especially in shipping, fishing and aquaculture, and offshore minerals. The marine economy added \$7 billion to our economy in 2017 and employed more than 30,000 people. Some protected marine species, such as marine mammals, support important tourism operations in some New Zealand regions.

## ISSUES AND THREATS

## Legal aspects

Biodiversity, conservation and resource use legislation as listed impacts species protection:

Conservation	Invasive species management	Resource management	Environmental management
<ul style="list-style-type: none"> <li>• National Parks Act 1980</li> <li>• Conservation Act 1987</li> <li>• Reserves Act 1977</li> <li>• Marine Reserves Act 1971</li> <li>• Marine Mammals Protection Act 1978</li> <li>• Wildlife Act 1953</li> <li>• Queen Elizabeth the Second National Trust Act 1977</li> <li>• Resource Management Act 1991 – see sections 6 (a,b,c), 7 (d), 30(1)(ga)</li> <li>• The Trade in Endangered Species Act 1989</li> </ul>	<ul style="list-style-type: none"> <li>• Wild Animal Control Act 1977</li> <li>• Biosecurity Act 1993</li> <li>• Hazardous Substances and New Organisms Act 1996</li> <li>• Pest control under the relevant place Act (e.g. NP Act, Reserves Act)</li> </ul>	<ul style="list-style-type: none"> <li>• Fisheries Act 1996</li> <li>• Maritime Transport Act 1994</li> <li>• Crown Minerals Act 1991</li> <li>• Resource Management Act (1991)</li> <li>• Conservation and Wildlife Acts (sports fishing and game birds)</li> </ul>	<ul style="list-style-type: none"> <li>• Resource Management Act 1992</li> <li>• Environment Act 1986</li> <li>• Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012</li> </ul>

There is also some special legislation that implements protection measures for marine species, for example Kaikōura (Te Tai o Marokura) Marine Management Act 2014.

### Risk reduction, readiness, response and recovery

DOC has Species Recovery Plans and Threat Management Plans in place for a small number of “Threatened Species”. Species recovery plans are used where that species needs a specific strategy to improve its current status. MPI uses risk assessment processes for protected marine species and has also developed National Plans of Action for some marine species.

Spatial protection measures, such as marine mammal sanctuaries, are in place to reduce threats to marine species in specific areas. More general measures, such as the Seismic Survey Code of Practice and bycatch reduction methods, provide additional protection to vulnerable protected species.

## Stakeholder coordination

DOC is New Zealand's lead agency for biodiversity management and protection. DOC is responsible for managing all indigenous terrestrial wildlife, marine mammals, and specific protected marine species through the Wildlife Act. There are 110+ predator free New Zealand islands and 17,700km<sup>2</sup> of marine protected areas within our territorial seas (representing 9.8% of our territorial seas). DOC primarily manages type 1 Marine Protected Areas (MPAs), with type 2 MPAs managed by DOC and other government agencies. DOC also primarily manages predator free islands, along with some under the management of local authorities and private landowners.

DOC's role in relation to marine wildlife includes carrying out recovery activities (e.g. translocating seabird chicks to create new populations), response activities (e.g. managing stranded whales), working to reduce bycatch during fishing, controlling the harvest of titi on the islands around Stewart Island, and managing the use of feathers and other parts of wildlife. Enforcement of rules related to the protection of wildlife through compliance work is carried out at both a district and national scale within DOC.

## Borders and biosecurity

MPI manages the accidental and deliberate introduction of pests into New Zealand under the Biosecurity Act and Hazardous Substances and New Organisms Act 1996 (HSNO Act).

Established pests are managed at a national scale by MPI, and by DOC (wild animals and freshwater aquatic pests).

Regional Councils primarily manage pests at a regional scale through regional pest and pathway plans under the Biosecurity Act. DOC also carries out some regional scale pest management and may support Council programmes in various ways.

Government land-managing agencies (e.g., DOC, LINZ, NZDF, NZTA, Education, and Forestry) manage pests on their land to achieve various outcomes, which can include protecting biodiversity.

The Department of Conservation is the management authority for the Convention on International Trade in Endangered Species (CITES) in New Zealand. In New Zealand, CITES is enacted via the Trade in Endangered Species Act 1989 and Trade in Endangered Species Regulations 1991. Key CITES-related activities include permitting of the import and export of endangered species and undertaking enforcement activities, in coordination with other agencies such as Customs.

## Fisheries

Fishing is managed by MPI under the Fisheries Act and Regulations, and via the Quota Management System. New Zealand fisheries management also operates in an ecosystem-based approach to the fisheries management framework, where associated and dependent species and wider aquatic environmental effects are required to be taken into account.

## ISSUES AND THREATS

### Marine mammals

All marine mammals (including in the EEZ) are protected under the Marine Mammals Protection Act 1978, which is administered by the Department of Conservation. Protection is achieved through a range of mechanisms including permits to “take” marine mammals (such as for research purposes) and the creation of marine mammal sanctuaries. Other roles for DOC include permits (and moratoria) for viewing/watching marine mammals (under the Marine Mammals Protection Regulations 1992), responding to marine mammal emergencies, strandings, entanglements etc, and permitting the taking or holding in captivity of marine mammals. DOC also administers the Code of Conduct for Minimising Acoustic Disturbance to Marine Mammals from Seismic Survey Operations.

### Wildlife

All wildlife in New Zealand (including in the EEZ) is protected under the Wildlife Act 1953 (administered by DOC), unless their level of protection has been reduced by inclusion in one of the Schedules to the Act (domestic animals, rabbits, hares, seals, and other marine mammals are excluded). Marine wildlife includes seabirds, turtles, sea snakes, some corals and fish species (including white shark).

### Conservation Services Levy

This is a levy imposed on the fishing industry and used to fund research to reduce the impact of fishing on protected species. The levy is administered by the Ministry for Primary Industries, while the research is managed by DOC.

### Resource Management Act

The Minister of Conservation is responsible for developing the New Zealand Coastal Policy Statement under the RMA. Regional Councils implement it by developing regional coastal plans. The Minister of Conservation has the functions of a regional council for the Kermadec Islands and the Subantarctic Islands. This includes the preparation of the regional coastal plan for those groups of islands.

Under the RMA local authorities control activities in the marine environment, which can include fishing in defined areas (so long as this is not for fisheries management purposes).

#### Policy / Strategy<sup>23</sup>

Lead	Support
DOC	NZ Police, MFAT, MFE, MOD, MPI

#### Intelligence<sup>24</sup>

Lead	Support
DOC	NMCC, MFAT, NZ Police, MPI, Customs

#### Operational Delivery<sup>25</sup>

Lead	Support
DOC	NMCC, NZ Police, NZDF, MPI, Customs

### Public information management

DOC leads information management supported by other agencies as required for species that are protected under acts that are administered by DOC.

23. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

24. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

25. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Illegal activity in protected areas

### Introduction

A range of different measures are in place to manage New Zealand's marine ecosystems, habitats and species and infrastructure. These include marine reserves, marine parks, wildlife sanctuaries, several types of customary areas (mātaihai, taia pure and rāhui), fisheries closures, areas closed under regional coastal plans, seasonal closures, cable protection zones, and marine mammal sanctuaries.

In 2005, New Zealand released its Marine Protected Areas Policy and Implementation Plan (MPA Policy), the objective of which is to: "Protect marine biodiversity by establishing a network of marine protected areas that is comprehensive and representative of New Zealand's marine habitats and ecosystems" (Department of Conservation and Ministry of Fisheries 2005). A range of management tools may provide protection to marine biodiversity. An MPA protection standard was developed to determine which management tools contribute to the above MPA policy objective (Ministry of Fisheries and Department of Conservation 2008). The MPA protection standard describes two types of MPAs: Type 1 MPAs (marine reserves) and Type 2 MPAs (other management tools that meet the protection standard).

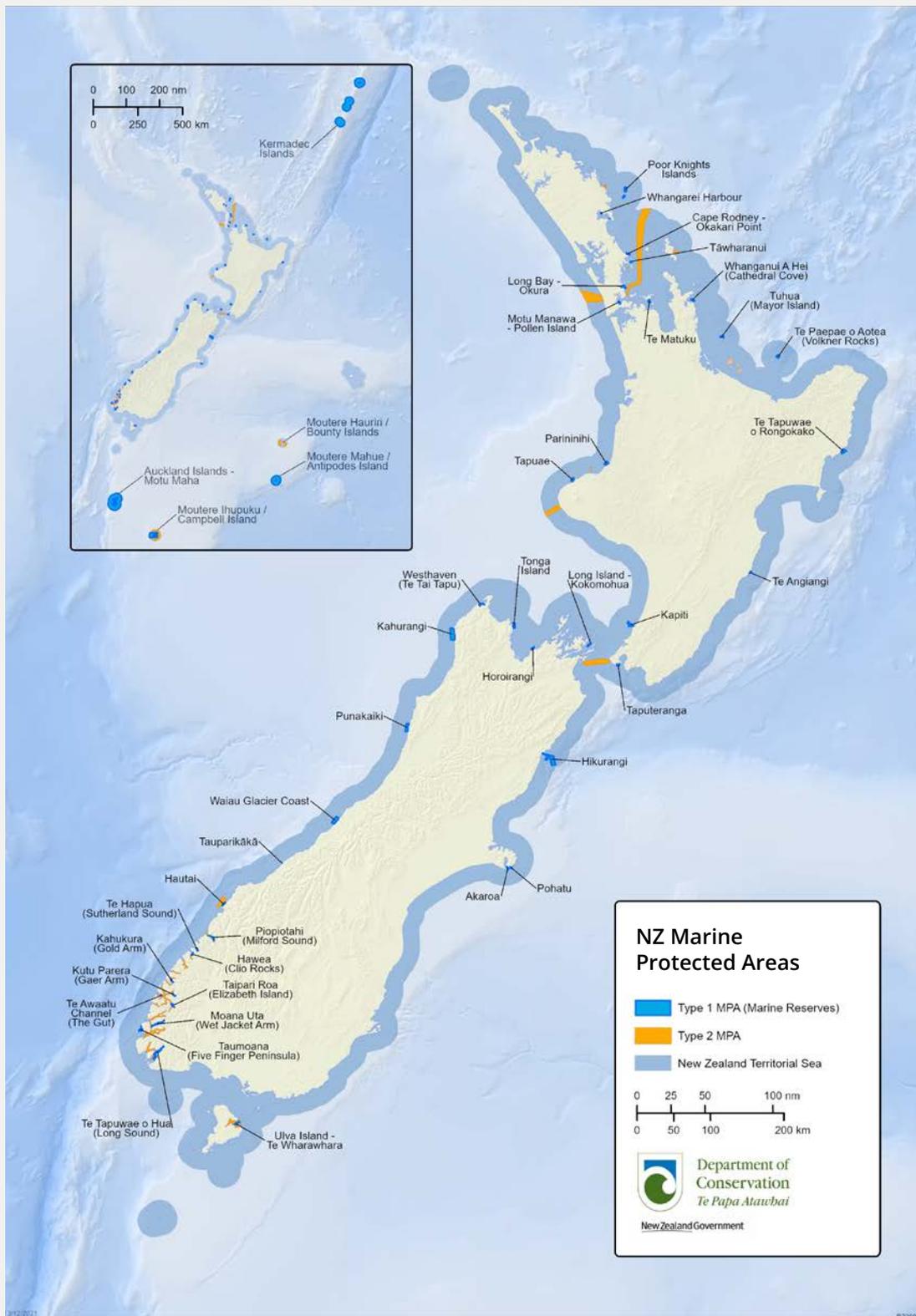
### Type 1 Marine Protected Areas: Marine reserves

Marine reserves have the highest level of marine protection and are established under the Marine Reserves Act 1971. DOC is responsible for the implementation, management and monitoring of New Zealand's 44 marine reserves. The main aim of a marine reserve is to create an area free from alterations to marine habitats and life, providing a useful comparison for scientists to study. Marine reserves may be established in areas that contain underwater scenery, natural features, or marine life of such distinctive quality, or that are so typical, beautiful or unique that their continued preservation is in the national interest.

➤ In 2005, New Zealand released its Marine Protected Areas Policy and Implementation Plan (MPA Policy)

ISSUES AND THREATS

**Map 1: Map of New Zealand’s MPAs (Department of Conservation (2021)  
Marine Protected Areas: Tier 1 Statistic**



Available at <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/marine-protected-areas/tier-1-statistic/marine-protected-areas-tier-1-statistic-2021.pdf>

## Type 2 Marine Protected Areas

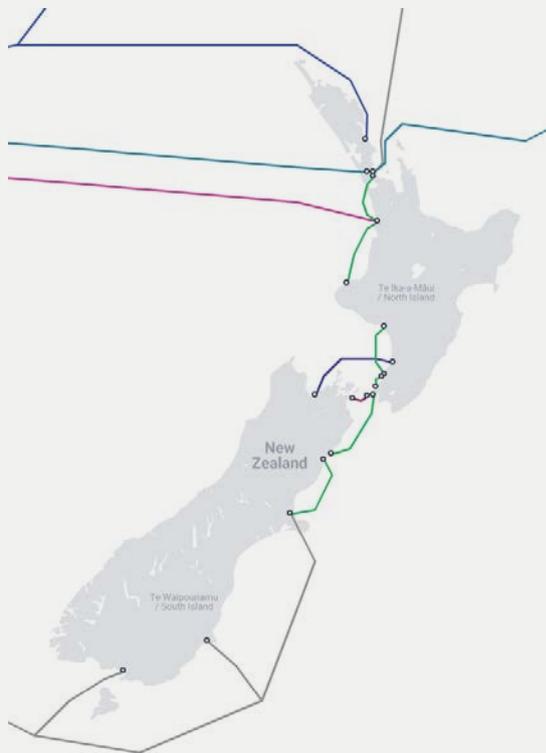
Type 2 MPAs include areas closed under the Fisheries Act 1996 (administered by MPI/FNZ) and Submarine Cables and Pipeline Protection Zones under the Submarine Cables and Pipelines Protection Act 1996 (administered by MOT). Cable and pipeline protection zones are established to protect cables vital to New Zealand's power and communications systems and to the New Zealand economy. Fishing or anchoring around these cables can potentially cause them serious harm so is prohibited. There are also currently three type 2 MPAs established in the Bay of Plenty, under the Bay of Plenty Regional Coastal Environment Plan, and more protected areas are proposed for other regions. The Sugar Loaf Islands MPA and the Fiordland Marine Area are also Type 2 MPAs for domestic reporting purposes.

### Figure 1: Cable Protection Areas

- Area 1:** Great Barrier Island
- Area 2:** Hauraki Gulf
- Area 3:** Kawau Island
- Area 4:** Whangaparoa Peninsula
- Area 5:** Muruwai Beach
- Area 6:** Takaroa
- Area 7:** Cook Strait
- Area 8:** Oaonui
- Area 9:** Hawke's Bay
- Area 10:** Maui A & B
- Kupe Gas Project protection Area – no number
- Maari Development Protection Area – no number
- Tui Area Development Protection Area – no number
- Pohokura Protection Area – no number

## ISSUES AND THREATS

**Map 2: New Zealand Submarine Cable Map<sup>26</sup>**



## Other protection measures

A range of other protection measures are in place, such as marine mammal sanctuaries and fisheries closures, that provide some protection to biodiversity but do not meet the current standard to be reported domestically as marine protected areas. Some terrestrial protected areas, such as nature reserves, include areas of the coastal and marine environment; some wildlife sanctuaries include estuarine areas.

## Consequences

The potential consequences of illegal activity in protected areas may include damage to environmental and/or cultural values and economic or business downturn. There may also be a detrimental impact on reputation and damage to iconic species and environments.

Undersea cables are considered critical infrastructure. Damage to these cables by illegal fishing or shipping activities (e.g. dragging an anchor) would have a significant impact on the social and economic wellbeing of New Zealand. Lack of compliance presents a risk to support for the implementation of new protected areas in the future.

26. <https://www.submarinecablemap.com> accessed 1 December 2023.

### Threat Snapshot

#### Illegal fishing in the Long Bay-Okura Marine Reserve

Long Bay-Okura Marine Reserve is a type 1 MPA located in the Hauraki Gulf Marine Park, just 20km north of Auckland City. Long Bay-Okura Marine Reserve was established in 1995 to protect a typical example of Auckland's north-eastern coastline.

The marine reserve is 980 ha and includes a large estuarine area in the northern end of the reserve, rocky reef platforms in the southern part of the reserve and sandy beaches. The reserve is adjacent to the Long Bay Regional Park and part of the Okura Bush Scenic Reserve. This provides integrated land to sea protection for parts of the reserve. The reserve provides excellent educational opportunities due to the proximity to the Regional Park and the Sir Peter Blake Marine Education and Recreational Centre (MERC). The reserve is home to typical Auckland east coast marine life, including a diverse range of nudibranchs. A study in 2011 concluded that snapper were larger and more abundant inside the reserve than outside.

Marine reserves provide the highest form of protection in the marine environment as most are strictly 'no take' areas, prohibiting fishing or any other kind of harvesting or attempt to do so. With some limited exceptions for some marine reserves, all natural material is protected and it is also an offence to harm or disturb marine life within the marine reserve. Marine reserves provide areas for scientific study where there is no (or minimal) human impact. The only time anything can be taken from the marine reserve is through an authorised research permit from the Department of Conservation or if the Order in Council for a particular reserve provides for take.

The Department of Conservation administers the Marine Reserves Act 1971 and manages marine reserves in New Zealand and therefore leads compliance work in the reserve. NZ Police and MPI fisheries officers have powers to enforce the rules under the Marine Reserves Act and support DOC's compliance work.



The reserve is the busiest marine reserve in the country due to its proximity to the Long Bay Regional Park and accessibility, seeing up to 1 million visitors per year. The pressures on this reserve are diverse and constant. This reserve is vulnerable to run off from land and has high sedimentation rates. There is housing development adjacent to the land and its proximity to New Zealand's most populated city makes it susceptible to pressures of pollution and introduced marine pests. Illegal fishing or harvesting of marine life in Long Bay is a major pressure on the reserve. Illegal harvesting of marine life such as kina and marine gastropods, and illegal fishing for target species such as snapper, are a consistent pressure on the reserve. Illegal fishing takes place from the shore and by boat.

Long Bay-Okura Marine Reserve has been targeted by recidivist offenders taking significant amounts of fish from the reserve. In 2021, it came to the attention of Department of Conservation warranted officers that there was an Auckland local who had been reported fishing with nets and long lines in the reserve. He was approached multiple times by DOC and other enforcement agencies but continued to fish. He is suspected to be catching fish within the reserve for illegal commercial purposes. Despite being approached multiple times and having his equipment and vessels seized, the offender continued to fish in the marine reserve. A prosecution case has been made against him and it is currently in court.

## ISSUES AND THREATS

## Existing marine management tools in New Zealand's waters

Management Tool	Legislation	Restrictions	New Zealand waters where tool can be applied
<b>Marine reserves</b>	<ul style="list-style-type: none"> <li>Marine Reserves Act 1971</li> <li>Subantarctic Islands Marine Reserves Act 2014</li> <li>Fiordland (Te Moana o Atawhenua) Marine Management Act 2005</li> <li>Kaikōura (Te Tai o Marokura) Marine Management Act 2014</li> </ul>	<p>No take of any marine life (includes attempt to take) or natural material, no dredging, dumping/discharging, construction, introduction of new organisms or any other direct human disturbance or damage.</p> <p>A few marine reserves provide for limited take, but only of specified natural materials (excluding marine life).</p>	Territorial Sea
<b>Marine mammal sanctuaries</b>	<ul style="list-style-type: none"> <li>Marine Mammals Protection Act 1978</li> <li>Kaikōura (Te Tai o Marokura) Marine Management Act 2014</li> </ul>	A range of restrictions depending on each marine mammal sanctuary. These vary from restricted commercial operations, prohibiting methods of recreational fishing, to special regulations.	Territorial Sea and Exclusive Economic Zone
<b>Marine parks</b>	<ul style="list-style-type: none"> <li>Hauraki Gulf Marine Park Act 2000 and amendment 2001</li> <li>Fisheries Act 1996</li> <li>Sugar Loaf Islands Marine Protected Area Act 1991</li> </ul>	A range of restrictions depending on each marine park. These include a variety of fishing restrictions from all commercial fishing being prohibited to special fisheries regulations.	Territorial Sea and Exclusive Economic Zone
<b>Submarine cables and pipelines protection zones</b>	<ul style="list-style-type: none"> <li>Submarine Cables and Pipelines Protection Act 1996</li> </ul>	No fishing or anchoring except for ships being used for research by or for the Ministry for Primary Industries as long as research is done without directly or indirectly attaching any ship to the seabed.	Territorial Sea and Exclusive Economic Zone
<b>Mātaitai – closed areas</b>	<ul style="list-style-type: none"> <li>Fisheries Act 1996</li> <li>Fisheries (Kaimoana Customary Fishing) Regulations 1998</li> <li>Fisheries (South Island Customary Fishing) Regulations 1999</li> </ul>	In general, commercial fishing is prohibited, amateur regulations apply unless bylaws to manage amateur fishing are put in place. Tāngata tiaki/kaitiaki can authorise customary food gathering and associated activities.	Territorial Sea

Management Tool	Legislation	Restrictions	New Zealand waters where tool can be applied
Taiāpure – local fishery	<ul style="list-style-type: none"> <li>Fisheries Act 1996</li> </ul>	Set aside coastal areas which customarily have been of special significance to an iwi or hapū as a source of food (kaimoana) or for spiritual or cultural reasons. Management committee appointed for the Taiāpure can propose regulations for the purpose of conserving and managing fisheries resources.	Territorial Sea
Section 186 – temporary closures	<ul style="list-style-type: none"> <li>Fisheries Act 1996</li> </ul>	Can temporarily close an area to fishing or temporarily restrict or prohibit the use of any fishing method for up to two years.	Territorial Sea
Benthic protection areas (BPAs)	<ul style="list-style-type: none"> <li>Fisheries Act 1996</li> <li>Fisheries (Benthic Protection Areas) Regulations 2007</li> </ul>	Prohibition on use of bottom trawls and dredges and restrictions on use of mid-water trawl nets to at least 100 metres above the sea floor.	Territorial Sea and Exclusive Economic Zone
Seamount closures	<ul style="list-style-type: none"> <li>Fisheries Act 1996</li> <li>Fisheries Regulations</li> </ul>	Trawling prohibited.	Territorial Sea and Exclusive Economic Zone
Objectives and policies under coastal plans	<ul style="list-style-type: none"> <li>Resource Management Act 1991</li> </ul>	Variable, subject to the provisions of each coastal plan, e.g., Motiti Protection Areas under the Bay of Plenty Regional Coastal Environment Plan.	Territorial Sea
Multiple MPAs and other protection measures within a defined area	<ul style="list-style-type: none"> <li>Fiordland (Te Moana o Atawhenua) Marine Management Act 2005</li> <li>Kaikōura (Te Tai o Marokura) Marine Management Act 2014</li> </ul>	Special legislation establishing multiple protection measures in a defined area. Area may have marine reserves, marine mammal sanctuaries and Taiāpure.	Territorial Sea

## ISSUES AND THREATS

## Stakeholder coordination

Advisory and management committees have been established for some protected areas and provide an important link between protected area management agencies and the community. These groups can support management agencies on matters such as compliance, monitoring and enforcement. Such groups include the Fiordland Marine Guardians and the Kaikōura Marine Guardians.

Policy / Strategy <sup>27</sup>	
Lead	Support
DOC	NZ Police, MFAT, MFE, MOD, MPI, MOT
Intelligence <sup>28</sup>	
Lead	Support
DOC	NMCC, MFAT, NZ Police, MPI, MNZ
Operational Delivery <sup>29</sup>	
Lead	Support
DOC	NMCC, NZDF, NZ Police, MPI, MNZ

## Public information management

Public information management for marine reserves and marine mammal sanctuary issues is led by DOC supported by other agencies as appropriate.

Public information management for Fishery Closures is led by MPI supported by other agencies as appropriate.

Public information management for Submarine Cable and Pipeline Protection Zones issues is led by MOT supported by other agencies as appropriate.

Public information management for areas closed under coastal plans is led by the relevant regional council, supported by other agencies as appropriate.

27. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

28. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

29. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Illegal interference with maritime infrastructure

### Key points

The Government of New Zealand is concerned with interference with maritime infrastructure that:

- increases the likelihood of death or injury;
- causes damage to the marine environment; and/or
- causes an economic loss.

### Introduction

The maritime sector and New Zealand's offshore marine environment are inherently hazardous.

New Zealand also has limits to how quickly search and rescue response assets can reach an offshore accident. We have limited coastal shipping traffic that can be tasked to help, and our military aircraft may already be tasked to live incidents elsewhere as part of our international commitment to service one of the world's biggest search and rescue areas.

While the likelihood of serious incidents occurring in New Zealand is considered low, we are not immune. This is why Government adopts a range of international best practice measures. For example, MBIE may establish a non-interference zone to prevent interference that may damage a ship or offshore structure and cause serious harm to people and/or the marine environment. The provisions were designed to ensure lawfully permitted activities can occur without disruption or damage to structures, ships, or equipment.

### Drivers

There has been increasing public opposition to offshore petroleum exploration due to linkages with climate change and a heightened awareness of oil spill risks following the Gulf of Mexico Deepwater Horizon incident in 2010.

In 2018, the Government decided to ban new offshore exploration. However, existing permits were unaffected by this change.

Historically, incidents of offshore interference in New Zealand have been characterised as non-violent direct action undertaken by a small number of civil society groups and individuals demonstrating their opposition to offshore petroleum exploration activities in New Zealand. They are typically well-prepared and aimed at generating public awareness by staging peaceful "bearing witness" moments in port or at sea and imposing a disruption cost on the operator. They have not intended to cause harm to people or the environment. Those opposed to petroleum and minerals development have a legitimate right to protest. The maritime sector and New Zealand's offshore marine environment are inherently hazardous. Port and harbour environments have many safety hazards and risks, including high volumes of vessel traffic and the movement of heavy machinery and cargoes. Offshore, we have rough seas states and weather conditions that can turn the water very rough, very quickly. The risk of harm to people increases when vessels or people in the water are intentionally used to force another ship to change direction or to stop quickly, or if vessels are pushed beyond their permitted operating limits (for example, taken further out to sea than they are designed for or have too many people onboard).

## ISSUES AND THREATS

## Potential consequences for New Zealand

The factors outlined above mean that interference with permitted activities can be dangerous for everyone involved. Even if it is not the intention of peaceful protestors, maritime accidents can occur quickly and without warning, no matter how experienced or well-trained operators and other marine users are.

## Historic interference incidents

2011	Protesters interfered with the seismic survey ship contracted by Petrobras, forcing the vessel to change direction and operations to stop.
2012	The Shell-chartered <i>Noble Discoverer</i> drill rig was boarded by protesters that occupied the drilling tower on the vessel for three days.
2013	A flotilla protest greeted the <i>Noble Bob Douglas</i> on arrival at the Romney-1 well site and one vessel breached the designated Non-Interference Zone for a number of days.
2017	Protesters interfered with the seismic survey vessel <i>Amazon Warrior</i> , forcing the vessel to change course, and endangering both protesters and vessel crew.
2018	Protesters boarded, in port, the seismic support vessel <i>Mermaid Searcher</i> , disrupting re-supply and maintenance activities.
2019	Protesters boarded the support vessel <i>Skandi Atlantic</i> in Timaru port, disrupting the ship leaving for Taranaki.
2020	Protesters boarded at sea, the <i>COSL Prospector</i> rig in Cook Strait en-route to Toutouwai-1 permit off the Taranaki coast. The protesters were removed and flown to the mainland.

## Legal aspects

The **Crown Minerals Act 1991** (CMA), in line with international best practice, includes non-interference provisions. The provisions are designed to ensure lawfully permitted activities can occur without disruption or damage to structures, ships, or equipment. It is a criminal offence to breach the non-interference provisions, which can result in criminal conviction, fines and/or imprisonment.

The non-interference provisions of the CMA are broadly two-fold:

- general non-interference provisions (s.101B(1)); and
- specific provisions that enable the establishment of non-interference zones (s.101B(6)).

The general provisions apply to all permitted activities. Under these provisions, it is an offence if a person intentionally engages in conduct that results in damage to, or interference with, any structure or ship that is in an offshore area and that is, or is to be, used in mining operations. In general this means interference with any operations or activities being conducted, or any works being executed, on, by means of, or in connection with such a structure or ship.

In an offshore location and during transit the general non-interference provisions may apply to those who intentionally damage or conduct interference to rigs, support vessels and/or equipment. Consideration could also be given to the normal rules of safe navigation and any other applicable legislation (such as the Maritime Security Act 2004, and Crimes Act 1961).

In a port location, support vessels and equipment are generally covered by legislation under the Maritime Security Act 2004, Trespass Act 1980, and Crimes Act 1960.

The specific provisions enable a non-interference zone (NIZ) to be established on a case-by-case basis. This zone is an exclusion area around a ship or offshore installation that mitigates the risk of possible harm to people or other vessels operating in the same offshore permitted area. It is an offence to enter a NIZ without a reasonable excuse.

A NIZ only applies to a specific permitted activity (for example, seismic surveying or an exploratory well being drilled within a specific permit area). It typically extends 500 metres out from the outer edge of the structure or ship, or the outer edge of any equipment attached to the structure or ship.

### Potential judicial consequences

If groups or individuals breach the non-interference provisions, they may be liable for fines or imprisonment.<sup>30</sup>

**Figure 1: KUPE Gas Field Unmanned Platform South Taranaki**



Courtesy of Beach Energy

## Risk reduction, readiness, response and recovery

### Risk reduction

The aim of the reduction phase is to reduce the risk of unlawful interference with permitted offshore activities.

Risks associated with interference may be reduced by specifying non-interference zones around a ship or structure undertaking a permitted activity where appropriate, and notifying the public of these zones by publishing them in the fortnightly *New Zealand Notices to Mariners*. MBIE typically designates 500 metre zones in line with international best practice and domestic maritime safety legislation. These exclusion zones prohibit other marine users from entering within 500 metres of the permitted activity and are similar to the safety and security boundaries set around airports and industrial plants.

### Readiness

Readiness involves developing operational systems and capabilities before an interference incident occurs. MBIE (with support from partner agencies) conducts seasonal planning and preparation which supports incident response.

Depending on the situation, DPMC may convene a Watch Group or an Officials' Committee for Domestic and External Security Coordination (ODESC) meeting.

30. See NICMA Appendix A.

**ISSUES AND THREATS**

 **Response**

MBIE may decide to stand up an **Incident Response Group** to plan, initiate and action an operational response. This group will only be stood up if MBIE passively receives information from the public, permit operators or partner agencies that demonstrates:

- a non-interference zone (NIZ) has been allegedly breached or will imminently be breached; and/or
- damage to, or interference with, a ship or structure has occurred or is likely to occur; and/or
- interference with any structure, ship or equipment used for a permitted activity has occurred to the extent the activity is unable to continue.

If MBIE determines that an alleged CMA breach requires a broader and more sustained level of response support, they should bring it to the attention of the Department of the Prime Minister and Cabinet (DPMC) for consideration as to whether the ODESC System should be activated.

 **Recovery**

The recovery phase focuses on what to do to after an interference incident has occurred. An operational response may have been actioned or the interference incident may have ended on its own. If there is an alleged breach of the CMA following an interference incident, an investigation under the relevant national plan (NICMA)<sup>31</sup> is likely to occur. Subject to the Solicitor-General's Guidelines, charges may be laid by MBIE (or NZ Police) for a breach of section 101B of the CMA.

**Stakeholder coordination**

Policy / Strategy <sup>32</sup>	
Lead	Support
MBIE	NZ Police, MFE, MFAT, DPMC, MOD, MNZ
Intelligence <sup>33</sup>	
Lead	Support
NZ Police	NMCC, NZIC, MNZ, MBIE
Operational Delivery <sup>34</sup>	
Lead	Support
NZ Police	NMCC, NZDF, NZ Police, MNZ, NZ Customs

31. National plan to manage interference with permitted offshore petroleum and minerals activities under the Crown Minerals Act 1991.  
 32. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.  
 33. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards, and levels of risk.  
 34. Agency responsible for leading and coordinating the operational (on the ground) response.

Agency	Statutory function
<b>Maritime New Zealand (including Rescue Coordination Centre New Zealand (RCC) and Maritime Pollution Response Services (MPRS))</b>	<p>The national regulatory, compliance and response agency for:</p> <ul style="list-style-type: none"> <li>• the safe, secure and clean operation of vessels, ships, ports, and offshore installations; and</li> <li>• environmental protection of coastal and inland waterways.</li> </ul> <p>Can comment on maritime safety, security or environmental protection issues, breaches of applicable legislation, port state control, major (Category 2) search and rescue / oil spill response operations (via RCC/ MPRS).</p> <p>Maritime Transport Act 1994; Maritime Security Act 2004; Health and Safety at Work Act 2015.</p>
<b>Ministry of Transport/Ministry of Foreign Affairs</b>	<p>Continental Shelf Regulations provide for 500 metre safety zones around some of the existing offshore petroleum platforms.</p> <p>Continental Shelf Act 1964.</p>
<b>New Zealand Police</b>	<p>Can comment on breaches of applicable legislation, general maintenance of law and order, arrests, minor (Category 1) SAR operations and any operational response to illegal activity.</p> <p>Crimes Act 1961; Summary Offences Act 1981; Trespass Act 1980; Search and Surveillance Act 2012.</p>
<b>New Zealand Customs Service</b>	<p>Can comment on customs requirements and other border protection issues.</p> <p>Customs and Excise Act 2018.</p>
<b>National Maritime Coordination Centre (NMCC)</b>	<p>A single, independent national maritime centre that combines information management and operational activities in respect of the civil security of New Zealand's maritime areas.</p> <p>Coordinates operational maritime patrol activity by government agencies, including monitoring security, customs, biosecurity, protected areas, illegal fisheries harvesting or minerals mining. May task aircraft and vessel assets pre-emptively and for a response.</p> <p>Chairs multi-agency Maritime Domain Awareness (MDA) working group.</p>
<b>New Zealand Defence Force</b>	<p>Defence Act 1990, section 9(1).</p>
<b>WorkSafe New Zealand</b>	<p>Health and Safety at Work Act 2015 and associated regulations.</p>
<b>Ministry of Justice</b>	<p>Maritime Crimes Act 1999.</p>
<b>Civil Aviation Authority</b>	<p>Civil Aviation Rules; Civil Aviation (Offences) Regulations 2006.</p>

## Public information management

Public information management is led by MBIE supported by other agencies as appropriate.

## ISSUES AND THREATS

## ➤ Piracy, robbery and violence in international waters

This entry should be read in conjunction with the security threats to ports or New Zealand flagged vessels pages in this Guide.

### Introduction

Piracy is defined by UNCLOS as *an act of violence, detention or depredation committed for private ends on the high seas against a ship, aircraft or persons on board aircraft or ships*.<sup>35</sup>

There are no records of a New Zealand flagged ship nor New Zealand mariner having been pirated to date and based on the very low number of New Zealand flagged ships,<sup>36</sup> the likelihood of a future occurrence is judged to be negligible.

Violence is generally intrinsic in acts of piracy and robbery at sea, but violence can also occur as an isolated and unrelated event.

### Potential consequences for New Zealand

The potential consequences of piracy, robbery, or violence in international waters are the threat of death, or injury to humans, disruption of commercial shipping activity and damage to and destruction of property. The security of shipping lanes throughout Asia and of the maritime approaches to New Zealand is essential for international trade. The threat towards New Zealand cargo transported via international shipping is as high as it is for any other international shipping country or ship owner or operator.

*MV Maersk Alabama*<sup>37</sup> was loaded with aid cargo bound for Africa when four Somali pirates attacked the ship in April 2009. The crew deployed anti-piracy measures, including the use of a secure room to provide shelter for the crew during the course of the attack. During the incursion the pirates captured the ship's captain and departed the ship using the ship's lifeboat. The United States destroyer USS Bainbridge was dispatched and reached the *Maersk Alabama*, with the intention of rescuing the *Maersk Alabama's* captain. A stand-off occurred with the lifeboat holding the pirates and captain, which was resolved when US Navy SEAL snipers shot and killed the three pirates and rescued the captain from the lifeboat.



35. UNCLOS Art 101

36. Whilst there are 14 ships registered for the International Safety Management protocol, 13 of them ply their trade in New Zealand waters and only go overseas for refits (5 x Cook Strait Ferries, 2 x concrete carriers, 3 x oil tankers and 1 x container vessel) and the other one is NIWA's research vessel *Tangaroa* which has not travelled anywhere near a piracy hotspot to date. Source: NZ Ships Registry, MNZ.

37. The photo above is of sister ship to *MV Maersk Alabama* – *MV Chastine Maersk*.

## International law

The definition of acts of piracy is contained in article 101 of **UNCLOS**.

The **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988 (SuA Convention)**, and the **Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf 1998**, deal with the broader concept of violence at sea. The main purpose of the SuA Convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force, acts of violence against persons on board ships, and the placing of devices on board a ship which are likely to destroy or damage it.

## New Zealand law

Piracy is an offence under New Zealand law under section 92 of the Crimes Act 1961.

The Maritime Crimes Act 1999 and the Crimes Act 1961 also have offences that relate to violence at sea.

The Maritime Powers Act 2022 provides enforcement agencies with powers that are exercisable in response to serious criminal offending against New Zealand law. This includes with respect to piracy and other violent offending at sea. The Act provides the Police, New Zealand Defence Force (NZDF), Customs Officers and Department of Conservation Rangers, Warranted Officers and Endangered Species Officers with the power to stop, board, search and detain a ship, seize evidence off it and arrest suspects.

The Maritime Security Act (2004) (MSA) is relevant to piracy because it mandates New Zealand flagged vessels to make security preparations against piracy and other maritime crimes. Maritime New Zealand (MNZ) administers this Act.

## Potential judicial consequences

Consequences under the Crimes Act include sentences up to life imprisonment for endangerment of the life of any person or a sentence not exceeding 14 years in any other case.

ISSUES AND THREATS

**Risk reduction, readiness, response and recovery**

**Risk reduction**

Risk reduction activity is led by MNZ which supports New Zealand ports, vessels and mariners through preventative security advice, which incorporates international advice including *Best Management Practice*.<sup>38</sup>

**Readiness**

Readiness for New Zealand flagged vessels centres on individual ship security exercises.

**Response**

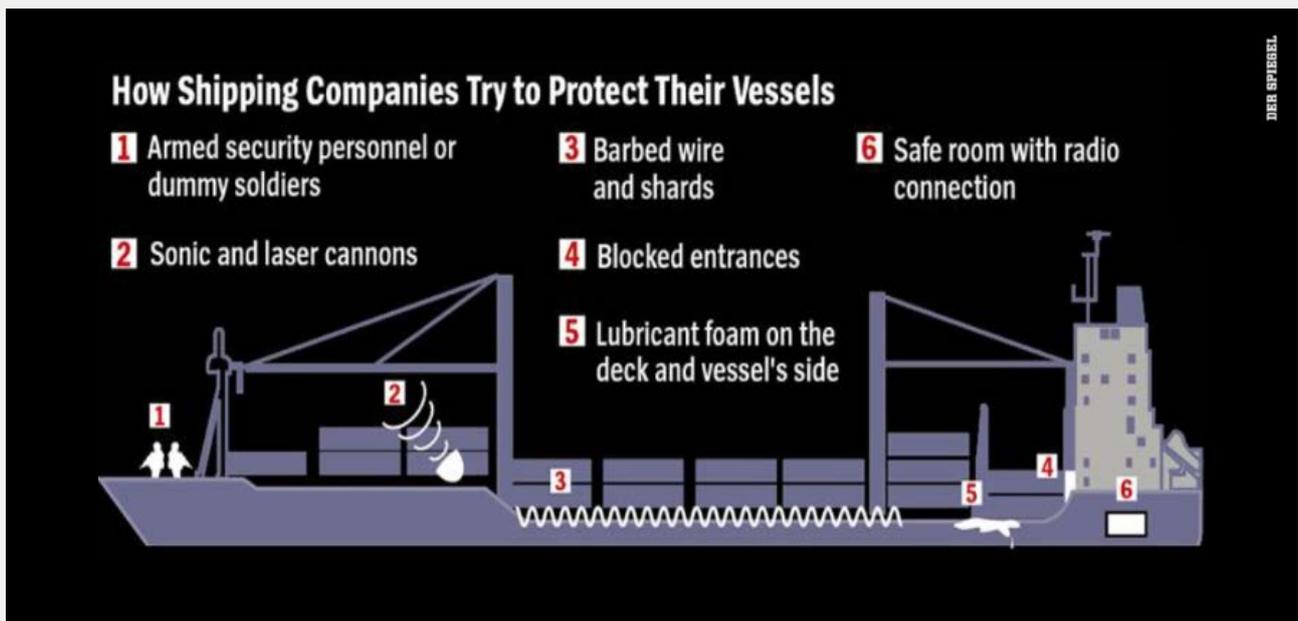
Any response to a New Zealand flagged vessel or mariner being subjected to piracy or violence in international waters is likely to be dealt with through activation of the National Security System led by the stakeholders identified in the box overleaf.

**Recovery**

Recovery will be led by the stakeholders as above.

**Figure 1: Example of Best Practice Management measures on a container vessel<sup>39</sup>**

Protective Measures, “Hardening the Vessel”



38. Currently Version 5.  
39. Der Spiegel March 2011.

## Stakeholder coordination

MOT's role as piracy policy lead is limited to coordinating initial advice to Ministers during an incident. That role is likely to pass to the operational lead once a response option has been selected by Ministers.

Lead for the development and delivery of advice on New Zealand's overseas contribution to counterpiracy initiatives is MOD.

MFAT is the New Zealand lead on international law, which for piracy is predominantly covered by UNCLOS.

MFAT is also the lead for the provision of any consular services that are sought.

MNZ, through the RCC, is likely to be the lead agency for the provision of current information on the location of vessels and mariners. MNZ would also lead liaison with maritime unions when and if they become involved.

NZDF is the most likely lead for operational delivery should that involve actions to free the vessel or mariners.

NMCC is likely to support the RCC with location information as well as providing a venue to support the coordination of assets.

Policy / Strategy <sup>40</sup>	
Lead	Support
MOT	MFAT, NZ Police, NZDF, MOD, MNZ
Intelligence <sup>41</sup>	
Lead	Support
NZIC	NZ Police, DPMC, NZ Customs, NZDF, MPI.
Operational Delivery <sup>42</sup>	
Lead	Support
NZDF	NZ Police, NMCC.

## Public information management

Public information management for a pirated New Zealand flagged ship or mariner is likely to be led by MOT supported by MNZ.

Public information management for a New Zealand contribution to a counter-piracy initiative is likely to be led by MOD supported by NZDF.

40. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

41. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

42. Agency responsible for leading and coordinating the operational (on the ground) response.

## ISSUES AND THREATS

## ➤ Maritime crime

Multiple crimes or potential crimes can be committed on or adjacent to New Zealand's waters. Note that many of the other issues/threats within the Guide can be classed as a crime. For incidents occurring on the water involving NZ Police, it is likely that Police maritime capabilities will be involved.

The prevention of harm on the water is the underlying principle for Police activity on the water.

### Death on water

#### Tasks

- NZ Police, as agents of the coroner, investigate sudden or unexplained deaths, or deaths in special circumstances
- When a death is the subject of a criminal investigation, NZ Police carry out investigation and coordinate the transfer of the deceased to a forensic facility
- In-water body recovery

#### Legislation

- Coroners Act 2006
- Crimes Act 1961
- Maritime Transport Act 1994

#### Partners

- Maritime NZ has the responsibility of accident investigation under the Maritime Transport Act 1994 and the Health and Safety at Work Act 2015. If the investigation involves a fatality, it is the duty of NZ Police to investigate on behalf of the coroner, with the option of taking prosecution action under the Maritime Transport Act 1994 or the Crimes Act 1961

### Interfering with a structure or operation in an offshore area / interfering with harbour navigation systems (lights, beacons, buoys etc)

#### Tasks

- NZ Police:
  - attend and deal with incident
  - lead the response
  - gather information and intelligence
  - transport specialist staff to the scene
  - secure the scene
  - deter further offences

#### Legislation

- Trespass Act 1980 (for structures owned by Harbourmasters)
- Crown Minerals Amendment Act 2019

#### Partners

- Harbourmasters, MBIE and MNZ

### Illegal importation of firearms, prohibited items or ammunition

#### Tasks

- NZ Police and Customs:
  - search and seizure of illegally imported items (firearms, prohibited items or ammunition)
  - also includes vessels temporarily visiting New Zealand

#### Legislation

- Arms Act 1983
- Arms Legislation Act 2020
- Maritime Powers Act 2022

#### Partners

- Customs

## Thefts, burglary and assaults

### Tasks

- NZ Police:
  - attend and investigate incident
  - detect other offences while attending unrelated offences
  - reassure the public
  - lead the response
  - transport further staff and other agencies to deal with incident
  - deter further offences
  - provide intel and surveillance.

### Legislation

- Crimes Act 1961
- Policing Act 2008
- Maritime Powers Act 2022

## Anchoring or fishing in protected telecommunication and electric power cable zones

See Marine Protected Areas pages

## Alcohol consumption by seafarers

### Tasks

- NZ Police
  - test users
  - prevent harm to other water users from intoxicated boat drivers while they are on the water
  - act as deterrent

### Legislation

- Policing Act 2008 tasks NZ Police with enforcing New Zealand law
- Maritime Transport Act 1994 provides enforcement powers with regards to maritime safety laws, including the regulation of alcohol consumption by seafarers

## Unlawful entry into New Zealand

### Tasks

- NZ Police:
  - meet vessels at sea or in port
  - support Immigration New Zealand in arresting those unlawfully entering New Zealand.

### Legislation

- Immigration Act 2009
- Maritime Powers Act 2022

### Partners

- Immigration NZ

## People trafficking

### Tasks

- NZ Police:
  - stop and board vessel or escort to a suitable port
  - search vessel.

### Legislation

- Crimes Act 1961
- Immigration Act 2009
- Maritime Powers Act 2022

### Partners

- Immigration NZ

**ISSUES AND THREATS****Health response****Tasks**

- NZ Police:
  - support lead agencies (MOH, Customs)
  - enforce PPE use
  - remove personnel to quarantine facility.

**Legislation**

- Policing Act 2008
- Health Act 1956
- Epidemic Preparedness Act 2006
- Civil defence and Emergency Management Act 2002

**Dangerous boating****Tasks**

- NZ Police:
  - attend and investigate incident
  - arrest and prosecute
  - serve Infringement Notices
  - MNZ generally investigates commercial operators and Police investigates recreational users.

**Legislation**

- Maritime Transport Act 1994

**Partners**

- Harbourmasters, MNZ.

**Stakeholder coordination**

<b>Policy / Strategy<sup>43</sup></b>	
<b>Lead</b>	<b>Support</b>
MOJ	NZDF, DPMC, MFAT, MOD, MNZ, NZ Police
<b>Intelligence<sup>44</sup></b>	
<b>Lead</b>	<b>Support</b>
NZ Police	DPMC, NZ Customs, MPI
<b>Operational Delivery<sup>45</sup></b>	
<b>Lead</b>	<b>Support</b>
NZ Police	NZDF, NZ Customs, NMCC

**Public information management**

Public information management for maritime crime is likely to be led by NZ Police supported by specialist agencies depending on the crime.

43. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

44. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

45. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Security threats to ports or New Zealand flagged vessels

### Introduction

The Maritime Security Act came into force on 1 July 2004 as mandated by the International Ship Port and Security Code – the ISPS Code is a set of measures to enhance security of ships and port facilities. The Act establishes a maritime security framework to detect security threats and take preventive measures against security incidents affecting ships or port facilities serving New Zealand's international trade.

### Potential consequences for New Zealand

Should New Zealand not have the mandated security measures in force and a serious maritime terrorism event occurred, the potential consequences could be serious loss of life, damage to significant port and ship infrastructure. Should New Zealand not be compliant to the ISPS code this could lead to trade restriction/ disruption which could have serious impact on New Zealand's ability to trade internationally.

### International law

The ISPS code is mandated by the International Maritime Organisation.

### New Zealand law

See Maritime Security Act 2004 above.

### Risk reduction, readiness, response and recovery

#### ➤ Risk reduction

MNZ is well connected to the New Zealand intelligence community and should receive warnings and indicators of an imminent threat. Additionally MNZ works within the New Zealand National Security framework and is an important player in New Zealand's Maritime Security Strategy. MNZ is a signatory to the Statement of Intent – a collaboration with like minded countries which shares information and best practice.

MNZ also undertakes security capacity work for some Pacific Island states.

**Figure 1: Reducing risk through security control measures: CentrePort, Wellington**



**ISSUES AND THREATS**

 **Readiness**

All New Zealand ports maintain Port Security Plans – these are tested annually through maritime security exercises. Additionally MNZ staff undertake liaison visits to ports; undertake inspections and maintain close liaison with other border agencies.

 **Response**

All ports are able to enhance response capability through escalation of three risk levels. Ports for example would be able to reduce access, enhance search and monitoring capability should there be a need to increase security levels. Additionally the New Zealand security framework is able to be activated dependent upon the security risk.

 **Recovery**

Recovery depends on the security incident but could be actioned by industry, local government or national recovery measures dependent upon the severity of the incident.

**Stakeholder coordination**

Stakeholder coordination is led by MNZ with major stakeholders including:

- the Cruise Association
- ports focused on their Port Facility Security Officers
- New Zealand border and intelligence agencies
- New Zealand flagged vessels
- the maritime industry.

Policy / Strategy <sup>46</sup>	
Lead	Support
MOT	MNZ, NZ Police, NZDF, NZIC, DPMC, MOD
Intelligence <sup>47</sup>	
Lead	Support
MNZ	NZ Police, NZIC, NZDF, NZ Police, NMCC
Operational Delivery <sup>48</sup>	
Lead	Support
RCCNZ	NZDF, NZ Police, NZ Customs, NMCC

**Public information management**

Public information management for an incident is likely to be led by MNZ and NZ Police should a significant security event occur.

46. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.  
 47. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.  
 48. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Illegal marine pollution

### Introduction

Marine pollution can take many forms including:

- an oil spill
- discharges
- illegal sea-dumping
- marine debris
- marine obstruction.

### Oil spill

A major oil spill is a release of liquid hydrocarbon into the environment due to human activity. They are typically a result of a shipping or transport, or offshore oil and gas accident. Oil spills may be either crude oils from offshore installations (including pipelines) and/or oil tankers, or refined products such as petroleum. Oil and petroleum are imported directly from overseas refineries.

### Illegal sea-dumping

This encompasses the deliberate disposal of wastes at sea.

### Marine debris

This encompasses the release of debris, including floating, or semi-submerged cargo, waste, discarded and lost fishing equipment (e.g. ghost nets), or a remnant structure that may cause damage to the offshore ecosystem and present a navigation hazard or, if washed ashore, damage to the animal and plant life on coastal fringes.

### Marine obstruction

This encompasses a disabled, stranded, or derelict vessel, or wreck, that may present an ongoing pollution, or navigation hazard, or block a waterway of significance to New Zealand's trading interests.

### Potential consequences for New Zealand

A major marine oil spill can have significant adverse environmental/natural impacts, and result in high levels of media and political interest and attention. Most adverse impacts occur in nearshore and coastal waters, and onshore within the intertidal area.

### Characteristics of a spill

- **Units:** An oil spill is typically characterised by the volume or quantity of oil spilled (for example, the *Rena* container ship grounding in October 2011 resulted in a 350 tonne oil spill, equalling 350,000 litres).

**Figure 1: *MV Rena* grounding**



## ISSUES AND THREATS

- **Extent:** A major oil spill could impact > 100 km<sup>2</sup> of coastline or nearshore/coastal waters
- **Duration:** An oil spill typically occurs instantaneously with limited warning; however some spills occurring from shipping incidents may have delays of days or weeks as a vessel suffers additional damage; an oil spill could be an instantaneous one-off release, or an on-going spill lasting for days or even months (i.e. for an offshore oil well blow out); a major oil spill is likely to take months or even years to clean up
- **Cost:** Whilst there are international laws that enforce the industry/operator paying for the response/clean-up and rehabilitation, there could be some situations (albeit rare) where some of the cost falls on New Zealand taxpayers.

### Impacts

- **Social:** Public health and employment can be impacted. There may also be some cultural impacts (e.g. dependence on kaimoana).
- **Governance/Sovereignty:** New Zealand's international reputation (e.g. 100% Pure New Zealand) could be impacted with consequences across tourism and food exports as well as New Zealand's reputation for upholding the rules based international system.
- **Economic/Financial:** Economic growth (GDP, primarily in the form of fishing/tourism loss); Local Government CNW (employment); Household CNW; Private Sector CNW (business income).
- **Built:** Critical lifeline utilities (disruptions to port and water transport activities).
- **Environmental/Natural:** Primary production – marine and freshwater; native species (endangered seabirds and shorebirds, marine mammals); marine – biodiversity and ecosystems (fisheries, marine water quality). Note: Native species above could also include already 'at-risk' sub-species (e.g. Maui's dolphin or Bounty Island shag), which for a reasonably small spill from a fishing vessel or similar could result in species extinction.

### International law

International law contains many measures to prevent marine pollution. For example, the United Nations Convention on the Law of the Sea (UNCLOS) creates a general duty to regulate all sources of pollution in the marine environment, not just ship-source pollution (Art. 194(1)). While 80 percent of marine pollution comes from land-based sources, international law regulates pollution from ships extensively. Instruments include:

- the London Convention (dumping of waste at sea)
- the International Convention for the Prevention of Pollution from ships (MARPOL, which covers oil, noxious liquid substances, harmful packaged substances, sewage, garbage and air pollution)
- Ballast Water Management Convention (preventing the spread of invasive species and disease from the discharge of ships' ballast water).

New Zealand is also party to many conventions agreeing and limiting liability for different types of marine pollution damage. These agreements are based on the principle that victims of marine pollution should be compensated. The conventions also establish funds which help to pay for the cost of clean-up and preventive measures, economic losses by fisherfolk, property damage and economic damage caused by (mostly) oil-based pollution. The cost of compensation through the funds is shared by shipowners, insurers and the oil receivers.

## New Zealand law

In the marine environment, the regulatory regime has some limitations, both in terms of regulatory and jurisdictional responsibilities of agencies, and also the capability of agencies to effectively respond to large-scale incidents, including a major oil spill, specifically Tier 3 marine oil spill incidents (in open waters).

### Legislation:

- Maritime Transport Act 1994 and Marine Protection Rules
- Exclusive Economic Zone and Continental Shelf (Environmental Effects – Discharges and Dumping) Regulations 2015
- Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013

### Regulation:

- Audits and inspections of offshore (oil and gas) installations
- Port State Control inspections
- International Oil Pollution Prevention Certificate

Maritime safety activity (surveys, charts, warnings, etc)

Key agencies include: MNZ, EPA, WorkSafe (High Hazards Unit)

## Potential judicial consequences

The potential consequences for an individual who causes marine pollution include: fine and/or imprisonment for the owner or master of the vessel involved; fine and/or imprisonment for other personnel involved in the illegal or criminal activity; civil or criminal action for activities that kill or harm native species or have a significant impact on the Commonwealth marine environment; seizure, or confiscation, of the vessel involved.

## Risk reduction, readiness, response and recovery

### Risk reduction

Regulation of the shipping/transport and offshore oil and gas industries; improvements in vessel design, and operational best practice in the offshore oil and gas industries.

### Readiness

New Zealand's Marine Oil Spill Response Strategy and National Marine Oil Spill Contingency Plan.

Maintenance of nationwide oil spill equipment stockpiles.

International 3<sup>rd</sup> party support arrangements.

### Risk Assessment:

- Environmental scan – 2020

### Monitoring:

- Immediate notification of incidents via MNZ RCCNZ
- MNZ on-call staff for immediate mobilisation of initial response capability
- Regional council 'Pollution Hotline'

### Planning:

- New Zealand Marine Oil Spill Response Strategy 2022 – 2026 (three-tiered response system)
- Integrated Maritime Incident Readiness and Response Strategy March 2022
- National Marine Oil Spill Contingency Plan (in place and regularly updated; requires implementation)
- Regional Marine Oil Spill Contingency plans
- Oil Spill Contingency plans for individual offshore installations (Marine Protection Rule 131 under the Maritime Transport Act)

**ISSUES AND THREATS**

**Capability development:**

- MNZ Strategic Implementation Plan 2022-2028
- Oil spill response equipment replacement and enhancement programme
- Involvement in worldwide oil spill response community
- Ex Whai Mana Evaluation report 2022

**Relationships:**

- Liaison with iwi on oil spill response
- MoU with Australian Maritime Safety Authority (AMSA) for assistance during a major oil spill response (in open waters)
- Contract with Massey University to provide a marine wildlife rescue capability
- Regional councils, salvage, well intervention, Oil Spill Response Ltd (UK) (OSRL)

Key agencies include: MNZ, regional councils

 **Response**

Oil spills or shipping/offshore oil and gas incidents are reported to the MNZ RCCNZ.

Tier 3 response arrangements in accordance with the National Marine Oil Spill Contingency Plan involve:

- National Response Team consisting of 150 members
- additional 200+ training regional council oil spill responders
- national oil spill response equipment stockpile held in Auckland
- 20 regional oil spill response equipment stockpiles
- ‘oiled marine wildlife’ response provided by Massey University
- OSRL/AMSA.

Key agencies include: MNZ, regional councils.

 **Recovery**

Long term monitoring of environmental impacts related to oil contamination of marine habitats and life.

Economic impacts may require compensation to businesses adversely affected by the spill.

**Stakeholder coordination**

MOT is responsible for the policy settings under which MNZ performs readiness, response and recovery actions. MNZ leads day-to-day stakeholder coordination.

Policy / Strategy <sup>49</sup>	
Lead	Support
MOT	MNZ, MBIE, DOC, MPI, NZ Police, MFE
Intelligence <sup>50</sup>	
Lead	Support
MNZ	EPA, NMCC, NZ Police, NZDF, DOC, MPI
Operational Delivery <sup>51</sup>	
Lead	Support
RCCNZ	EPA, NMCC, NZ Police, NZDF, DOC, MPI

**Public information management**

Public information management for an incident is likely to be led by MNZ.

49. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

50. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

51. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Maritime safety and emergencies (including oil response)

### Introduction

Maritime NZ is the lead New Zealand operational agency for responding to significant and major maritime incidents. General maritime incident response (non-oil) is managed through the Maritime Incident Readiness and Response (MIRR) Team but is delivered through a whole-of-organisation approach by working in conjunction with Managers and staff across MNZ, and in particular with the Marine Pollution Response Service (MPRS) and the Rescue Coordination Centre New Zealand (RCCNZ).

Maritime NZ's responsibility for maintaining and implementing the country's maritime incident response system means it works with international partners, other government agencies, regional councils, commercial operators, recreational bodies, and communities to maintain a response capability that includes the provision of equipment (primarily in the marine oil spill response area).

➤ **Maritime NZ is the lead New Zealand operational agency for responding to significant and major maritime incidents**

### Potential consequences for New Zealand

MNZ recognises that, in general, major maritime incidents are complex and varied situations that:

- may involve ships or offshore operations;
- may involve both oil and non-oil pollution; and
- are inherently dangerous because they may result in risks to life, hazards to shipping, damage to the environment, and loss of property.

Maritime NZ applies a guiding framework for the response to maritime incidents based on three levels of incident 'seriousness': minor/routine, significant, and major.

Classification is driven fundamentally by the actual or potential seriousness of the consequences of the incident in terms of risks to life, the environment, the economy (national and local), and property along with the level of involvement or activity Maritime NZ needs to undertake (see Figure 1 below).

ISSUES AND THREATS

**Figure 1: Maritime NZ maritime incident classification mapped to CIMS (third edition) incident classification**

		Severity			
		1 Minor	2 Moderate	3 Major	4 Severe
Response Level	National (N)	➤ N1 A minor national level response	➤ N2 A moderate national level response	➤ N3 A major national level response	➤ N4 A severe national level response
	Regional (R)	➤ R1 A minor regional level response	➤ R2 A moderate regional level response	➤ R3 A major regional level response	➤ R4 A severe regional level response
	Local (L)	➤ L1 A minor local level response	➤ L2 A moderate local level response	➤ L3 A major local level response	➤ L4 A severe local level response
	Incident (In)	➤ In1 A minor incident level response	➤ In2 A moderate incident level response	➤ In3 A major incident level response	➤ In4 A severe incident level response

**Key:**

- N/A – A ‘Minor’ National – level (N1) maritime incident is highly unlikely
- Minor/Routine
- Significant
- Major
- N/A – It’s highly unlikely that a maritime incident on its own will reach this level of severity

Source: New Zealand Government. 2019, *Coordinated Incident Management System* (3<sup>rd</sup> edition, effective from 1 July 202). Wellington: Department of the Prime Minister and Cabinet, Table 5, p 28.

## Strategic assumptions for New Zealand

Two strategic assumptions dictate New Zealand's response arrangements.

- There are affordability limits to the amount of response capabilities owned or held by central and local government, so New Zealand will require significant international inputs for incidents of a certain scale or complexity.
- New Zealand's relative global remoteness will impact on the timeliness of delivery of these international inputs.

These assumptions have led to the concept of 'adequate domestic first response capability', which underlies Maritime NZ's strategy and plans for response. For marine oil spill response, the concept is operationalised through a three-tiered response regime. This regime, administered by Maritime NZ, meets New Zealand emergency management principles and International Maritime Organization norms.

However, when considering a major maritime incident, with a wider risk spectrum, including a Tier 3 response to marine oil and non-oil threats, the intensity of the incident and the severity of the consequences may necessitate decision powers beyond those available under the Maritime Transport Act 1994 and may require decision-making at a strategic level.

If a full national emergency were declared (under the Civil Defence Emergency Management Act 2002), the response leadership might still belong within the transport sector under its Minister and lie with the Director of Maritime NZ, but operating within national security guidelines and procedures. Judgments such as these about governance and others of similar criticality about response management structures would be raised to the levels of the Officials Committee for Domestic and External Security Coordination (ODESC) and Cabinet as dictated by the severity of the threats, in aggregate, and assessed against sector-specific escalation criteria (see Figure 2 below).

## ISSUES AND THREATS

Figure 2: Major maritime incident – threat severity and response escalation criteria

Category of Impact	Increasing Severity of Impact 	
<b>Human</b>	Potential for loss of life	Potential for multiple loss of life
<b>Environment</b>	Significant impacts and natural recovery may take months; remediation required	Significant area and natural recovery may take months; remediation required
<b>Wildlife and Plants</b>	Groups of wildlife or plants or threatened wildlife or plants	Large numbers of wildlife or plants
<b>Economy</b>	Business failure	Disruption of sector
<b>Social</b>	Ongoing reduced services	Reduced quality of life
<b>Infrastructure</b>	Medium term failure	Severe impairment
<b>Public Affairs</b>	National media coverage Community and iwi unengaged	International media coverage Community and iwi alienated
<b>Government</b>	<b>Fiscal</b> – within budgets <b>Legal</b> – parties negotiate to settle; consent for operations/ require negotiation <b>Diplomatic</b> – few foreign nationals affected	<b>Fiscal</b> – new appropriation required <b>Legal</b> – parties in dispute; consent/access denial <b>Diplomatic</b> – numerous foreign nationals affected

## International law

International law contains many measures to ensure the safety of life, property and environment at sea, the most important of which being the International Convention for the Safety of Life at Sea:

- International Convention for the Safety of Life at Sea (SOLAS), 1974
- International Convention on Maritime Search and Rescue (SAR), 1979
- The United Nations Convention on the Law of the Sea (UNCLOS)

## New Zealand law

Maritime Transport Act 1994 (MTA): gives the Director of Maritime NZ wide-ranging and significant powers to direct the actions of any parties involved with an incident where a vessel or installation is declared to be 'hazardous'. These powers are broadly similar to the powers of the National Controller under a civil defence emergency declaration.

Health and Safety at Work Act 2015 (HSWA): MNZ administers the HSWA and associated regulations for work on board ships, and where ships are places of work. MNZ also provides health and safety resources including guidance about implementing the HSWA in the maritime sector.

## Risk reduction, readiness, response and recovery

### Risk reduction

Identification and analysis of the risks from maritime incidents to the maritime environment, including taking steps to eliminate these risks if practicable, and, if not practicable, reducing the magnitude of their impact and the likelihood of their occurring.

A transparent and systematic process is used when identifying and assessing risks and in communicating these risks to all relevant parties. The risk-based approach will be used in decision-making for preparing and planning for maritime incident response.

The main features of the risk reduction approach are:

- education and advice
- tracked vessel movements
- industry agreements for immediate rescue and salvage resources
- encouraging industry to operate within a safety culture.

## ISSUES AND THREATS

 **Readiness**

A focus of the Integrated Maritime Incident Readiness and Response Strategy is the delivery of contingency plans that are well understood, monitored, exercised, and compliant with relevant legislation.

This includes out of hours guidelines, functional plans for CIMS teams and information on relevant conventions, laws, regulations and rules.

**Monitoring:** Coastal and shore-based surveillance, intelligence and community outreach: A range of shore-based systems and relationships provide additional maritime security situational awareness. Examples include:

- border and port monitoring systems and processes
- community outreach and engagement.

**Planning:** Maritime NZ maintains the Integrated Maritime Readiness and Response Plan. This plan provides guidance for the Maritime Incident Response Team (MIRT) when it is mobilised to assist with a response to a maritime incident:

- Integrated Maritime Incident Readiness and Response Plan Version V.5.

**Capability development:** To maintain and further develop response capability, Maritime NZ conducts incident response exercises regularly.

 **Response**

The New Zealand Government's role is to oversee the actions of the owners/operators for operational management of a maritime casualty (that is, a governance and assurance role). Only in extreme situations would the government seek to directly engage specialists to undertake operational tasks. Clear communication is needed among key stakeholders about the situation and any necessary actions.

The MIRT's three core functions, undertaken in various combinations, depending on the scenario are:

- **Monitoring:** developing and maintaining situational awareness to determine what is occurring in the incident
- **Oversight:** understanding the actions or proposed actions by the main parties, considering the Government's and New Zealand perspectives on these actions, and forming a view as to their appropriateness
- **Intervention:** considering options for intervention using available powers and influence if actions are inappropriate or insufficient, and executing and managing the approved intervention.

 **Recovery**

Coordinated efforts and processes to bring about the immediate, medium-term, and long-term regeneration of the marine environment and community (as required) following a maritime incident. Maritime NZ's focus is on assisting recovery authorities to undertake base-lining activities at the start of a response and monitoring the environmental effects of the response activities. Processes are in place to promote environmental, economic, social, and cultural recovery after an incident, including:

- determining whether impacts have occurred and assessing them
- establishing and implementing a restoration plan (if needed)
- monitoring results over time.

**Stakeholder coordination**

MOT is responsible for the policy settings under which MNZ performs readiness, response and recovery actions. MNZ leads day-to-day stakeholder coordination.

Policy / Strategy <sup>52</sup>	
Lead	Support
MOT	DPMC, NEMA, MOD, NZDF, MFAT, MFE, FENZ, MBIE
Intelligence <sup>53</sup>	
Lead	Support
MNZ	MPI, MBIE, EPA, NMCC, GNZ, FENZ
Operational Delivery <sup>54</sup>	
Lead	Support
MNZ	NZDF, EPA, MPI, NEMA, Emergency Task-Force (MFAT), local authorities, FENZ

**Public information management**

Public information management for an incident is likely to be led by MNZ.

52. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

53. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

54. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Maritime Search and Rescue (SAR)

### Introduction

With maritime SAR occurring regularly and dealt with as a business-as-usual event, this section focuses on nationally significant Search and Rescue (SAR) incidents which are events that overwhelm normal capacities and may trigger the involvement of the ODESC system. Such an event would require considerable resources to resolve; involve significant numbers of casualties or fatalities; attract substantial domestic and international attention; or create reputational risks to SAR agencies and New Zealand.

Though not all Nationally Significant SAR events will involve Mass Rescue Operations (MRO), these types of operations do involve extensive activities beyond search and rescue, such as: environmental protection; reconciliation and repatriation; international liaison; ongoing medical care; high levels of media interest; Disaster Victim Identification; investigations; and salvage and recovery planning.

### Mass Rescue Operation (MRO)

An MRO will almost certainly be the most complex and adversely consequential type of nationally significant SAR operation. As such, there is an expectation in the international SAR system that nations prepare to respond to an MRO incident. These low-probability, high-consequence events are defined as follows.

*a mass rescue operation (MRO) is one that involves the need for immediate assistance to large numbers of persons in distress, such that capabilities normally available to search and rescue authorities are inadequate.*

An MRO incident is a nationally significant SAR operation, which would require the activation and involvement of the ODESC system.

### SAR Categories

Category One operations usually involve local resources and people who are familiar with the area. These are coordinated by NZ Police.

Category Two operations usually involve national or international resources. These are coordinated by the Rescue Coordination Centre NZ (RCCNZ)

## International law

The New Zealand Government has obligations to establish and provide search and rescue services under international conventions to which it is a party including:

- Convention on International Civil Aviation 1944: Annex 12 'SAR Standards and Procedures'.
- International Convention for the Safety of Life at Sea (SOLAS) 1974: Chapter V 'Search and Rescue'
- Convention on the High Seas 1958: Article 12
- International Convention on Maritime Search and Rescue 1979: 'Provision of regional SAR services and Rescue Coordination Centre (RCC)'
- United Nations Convention on the Law of the Sea (1982): Article 98 'Duty to render assistance'.

In brief, these conventions impose obligations on the party states to:

- arrange for the establishment and prompt provision of search and rescue services within their Search and Rescue Regions (SRR)
- establish a 'national machinery' for the overall coordination of SAR services
- establish an RCC for the relevant search and rescue region, staffed 24 hours a day.

**Figure 1: New Zealand Search and Rescue Region**



## ISSUES AND THREATS

## New Zealand law

The New Zealand Government has ensured that its international obligations to deliver SAR services are implemented by incorporating appropriate requirements into New Zealand legislation.

The Minister of Transport is responsible for the organisation and conduct of specific SAR activities within the New Zealand's Search and Rescue Region. New Zealand statutes that relate directly to the delivery of SAR services include:

- Civil Aviation Act 1990 section 14b
- Maritime Transport Act 1994 section 431.

Other New Zealand statutes that relate to the provision of SAR services include:

- Policing Act 2008 sections 9, 10.

NZ Police has the legal responsibility for all human remains recovery activities in New Zealand<sup>55</sup> in accordance with the Coroners Act 2006.

## Risk reduction, readiness, response and recovery

### Risk reduction

Maritime New Zealand (MNZ) is the national regulatory, compliance and response agency for the safety, security and environmental protection of coastal and inland waterways.

MNZ provides a national land, sea and air search and rescue coordination service through the RCCNZ which provides a full-time search and rescue service and is responsible for coordinating all major maritime and aviation search and rescue missions within New Zealand's search and rescue region. RCCNZ also oversees land-based missions arising from the activation of distress beacons.

### Readiness

Coordinating authorities are responsible for preparing comprehensive readiness plans for the conduct of SAR operations in their respective areas of responsibility. These plans should be based on agreements between the coordinating authorities and the providers of SAR facilities or other support for SAR operations.

Plans are intended to be valuable aids for time-critical search planning and SAR coordination processes. The Coordinating Authorities should develop plans that:

- meet the requirements of applicable international SAR manuals
- cover all potential SAR emergency scenarios likely to occur within the NZSRR, or within the Police District or area of the NZSRR relevant to that plan (e.g., Antarctica)
- are based on identified SAR risks and analysis of SAR trends
- are reviewed and updated regularly
- are readily available to SAR coordinators in convenient form for quick and easy use.

The coordinating authorities should ensure there are established contingency facilities, or if a SAR service is unable to be provided by one of the coordinating authorities, procedures are in place for the temporary delegation of SAR responsibility to another coordinating authority.

Contingency arrangements should be tested periodically, but not less than once every six months for RCCNZ.

55. New Zealand means the land and the waters enclosed by the outer limits of the territorial sea of New Zealand (as described in section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977); and includes the Ross Dependency.

## Response

A search and rescue Coordinating Authority is the agency or body responsible for the overall conduct of a Search and Rescue Operation (SAROP). The Coordinating Authority will lead and manage the operation.

New Zealand has two recognised SAR Coordinating Authorities. They are:

- NZ Police
- RCCNZ.

Special coordination arrangements are made for SAR incidents that occur within the Antarctic NZSRR.

For any SAROP there can only be one Coordinating Authority who is responsible for the management and coordination of the operation.

The Coordinating Authority to receive initial notification of an incident that may require a SAROP will undertake the initial classification of the SAROP and assume responsibility until any formal transfer required is agreed.

## Recovery

Some SAR operations may require extended searching, and at some point, the Coordinating Authority must take the difficult decision to suspend search operations pending the receipt of additional information. That is, the Coordinating Authority must decide that additional search effort will not result in success.

In making this decision, each SAR incident must be considered on its own merits, and care should be taken not to end the search prematurely. The decision to suspend a search involves humanitarian considerations, but there is a limit to the time and effort that can be devoted to each SAR case.

## Stakeholder coordination

NZ Police is the lead agency for Category one Search and Rescue incidents and is managed at the District level. Police National Headquarters provides direction and guidance on the strategic and operational principles for Category One Search and Rescue and the relationships with SAR partner agencies.

MNZ through the Rescue Coordination Centre is likely to be the lead agency for the provision of current information on the location of vessels and mariners.

NMCC is likely to support the RCC with location information as well as providing a venue to support the coordination of assets.

### Policy / Strategy<sup>56</sup>

Lead	Support
MOT	NZSAR Secretariat, MNZ, NZ SAR Council, NZDF, MFAT, MFE, NZ Police, MOD

### Intelligence<sup>57</sup>

Lead	Support
MNZ	RCCNZ, NMCC, NZDF

### Operational Delivery<sup>58</sup>

Lead	Support
RCCNZ	NZDF, NZ Police, MNZ, NMCC, local authorities.

## Public information management

Public information management for an incident is likely to be led by NZ Police for Category One and MNZ for Category Two Search and Rescue operations.

56. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

57. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

58. Agency responsible for leading and coordinating the operational (on the ground) response.

## ISSUES AND THREATS

## ➤ Defence of New Zealand's sovereignty and territorial integrity

### Context

New Zealand's region encompasses an expansive, diverse and largely maritime area, spanning from Antarctica through to the Pacific, and west toward Australia and north-west toward South-East Asia. As well as New Zealand territory (including its off-shore islands), New Zealand has constitutional responsibilities to Tokelau as a non-self-governing territory of New Zealand, and to the Cook Islands and Niue as self-governing states in free association with New Zealand.

New Zealand exerts full or partial control in defined maritime zones as specified in the United Nations Convention on the Law of the Sea (UNCLOS):

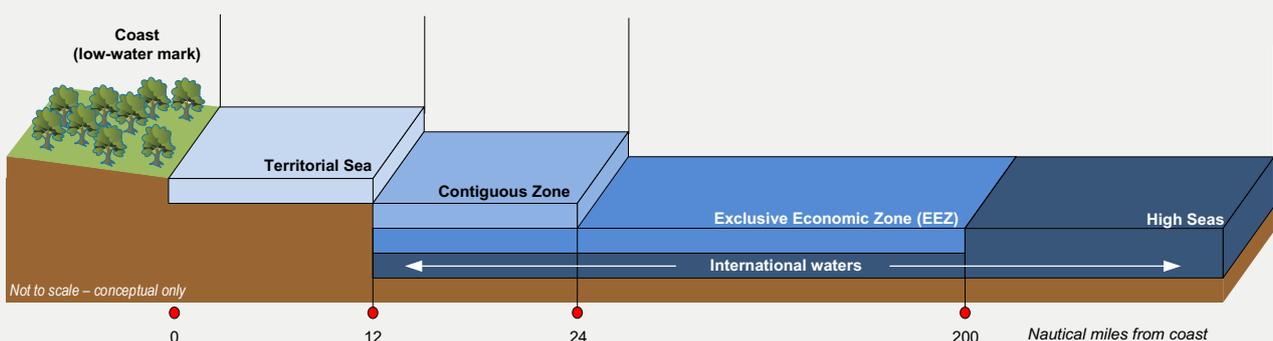
- In the territorial sea (from the shore out 12 nautical miles), New Zealand has full sovereignty.
- In the contiguous zone (between 12 to 24 nautical miles from the shore), New Zealand may conduct certain law enforcement activities.
- In the Exclusive Economic Zone (EEZ) (between 12 and 200 nautical miles from the shore), New Zealand has sovereign rights over marine resources and jurisdiction over the protection and preservation of the marine environment.

- On the continental shelf (which extends beyond the EEZ in some areas), New Zealand has exclusive sovereign rights over the use of non-living resources and sedentary species.

New Zealand depends on the international rules-based system, along with cooperation from other states, to preserve and promote its maritime interests including its sovereignty and territorial integrity. In turn, New Zealand's national security both relies upon and enables the protection of New Zealand's expansive maritime domain.

The New Zealand Defence Force also contributes to securing New Zealand's maritime domain, and safeguarding the Ross Dependency in Antarctica through the use of military capabilities. Due to New Zealand's constitutional responsibilities referred to above, New Zealand is responsible for the defence and security of Tokelau. This is a responsibility which in practice would only be discharged in consultation with Tokelau. New Zealand also has a constitutional responsibility to assist the Cook Islands and Niue with defence, if that assistance is requested by their Governments.

**Figure 1: Maritime zones**



## Drivers

Key system trends driving the potential risk of maritime territorial incursion to New Zealand comprise:

- **Climate change:** Changing fish migration patterns may make New Zealand's EEZ an increasingly attractive location for fisheries.
- **Strategic competition in the Pacific:** the increasing influence and presence in our region of non-traditional actors could challenge the maritime rules based international system.
- **Pacific fisheries:** the impact of COVID-19 on the economies of Pacific Island countries has increased the importance of fisheries for regional stability. This in turn is likely to increase the pressure on a resource already impacted by geostrategic competition, unsustainable fishing practices (including subsidies), IUU, and climate change. The COVID-19 crisis is likely to further increase the involvement of distant water fishing nations in Pacific fisheries. The increase in pressure on coastal fisheries threatens food security for Pacific Island countries reliant on this food source.
- **Increasing maritime activity:** expanding maritime economies are increasing the number of vessels, facilities and infrastructure in New Zealand's maritime areas of interest.

## Legal aspects

Article 2(4) of the United Nations Charter states that all member nations should refrain from the threat or use of force against another state.

## Stakeholder coordination

Policy / Strategy <sup>59</sup>	
Lead	Support
MOD	NZ Police, NZDF, NZIC, DPMC, MFAT
Intelligence <sup>60</sup>	
Lead	Support
NZDF	NZIC, DPMC, MFAT, GNZ
Operational Delivery <sup>61</sup>	
Lead	Support
NZDF	NZ Customs, NMCC, NZ Police

## Public information management

This is likely to be led by MOD initially with support from the stakeholders above.

59. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

60. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

61. Agency responsible for leading and coordinating the operational (on the ground) response.

## ➤ Promotion and support of the Maritime Rules Based International System – United Nations Convention on the Law of the Sea (UNCLOS)

### Description

- New Zealand is a beneficiary of the certainty, stability, universality and safeguards extended by the international system, anchored in international law.
- Aside from the UN Charter, the United Nations Convention on the Law of Sea (UNCLOS) is one of the most significant international treaties for New Zealand.
- UNCLOS reflects a carefully negotiated balance of rights and obligations which was hard fought and which protects some of New Zealand's and the Pacific's core interests. UNCLOS established New Zealand's rights to an Exclusive Economic Zone (EEZ) and extended Continental Shelf. It enshrines the freedoms of navigation and overflight that ensure secure trade routes, and provides for protection and preservation of the marine environment, including living and non-living resources.
- UNCLOS underpins the security and prosperity of the Pacific. It is also central to understanding global flashpoints.
- 168 UN member states are UNCLOS parties. Defending UNCLOS is of strategic importance to New Zealand.

### Importance to New Zealand

- The EEZ extends from 12 to 200 nautical miles off New Zealand's coast. New Zealand's EEZ is one of the largest in the world at approximately 4 million km<sup>2</sup>,<sup>62</sup> fifteen times the size of our land mass itself. The EEZ gives New Zealand sovereign rights to the living and non-living resources.
- The EEZ is crucial to New Zealand's economy, including our fisheries industry. For example, prior to the EEZ being established, the value of our fish exports peaked at \$50.4 million. By 1994 it was estimated at \$1.2 billion.<sup>63</sup> In the 2000s, our fish exports continued to exceed \$1 billion annually.
- UNCLOS guarantees rights to freedom of navigation and overflight. This is directly relevant for our entire marine economy,<sup>64</sup> and shipping in particular.
- UNCLOS also explicitly gives states the freedom and right to lay submarine cables in the high seas, EEZ, and Continental Shelf.<sup>65</sup>
- Māori have a close cultural and spiritual relationship with the ocean, especially within the territorial sea adjacent to the land. Some iwi have cultural connections with specific areas within New Zealand's EEZ, as certain water passages played important roles for ancestral migrations to Aotearoa.<sup>66</sup>
- Māori may have rights in the EEZ conferred by Te Tiriti o Waitangi and Treaty settlements. Some Treaty settlements have been directly related to commercial fisheries.

62. "Map of the Continental Shelf Boundary" Land Information New Zealand <www.linz.govt.nz>.

63. Malcolm Templeton "The Law of the Sea" in Malcolm Templeton (ed) *New Zealand as an International Citizen* (Ministry of Foreign Affairs and Trade, Wellington, 1995) at 154.

64. This is defined as the sum of the economic activities that take place in, or use, the marine environment or produce goods and services necessary for those activities, and make a direct contribution to the national economy.

65. UNCLOS, arts 87, 58(1) and 79.

66. Hon David Benson-Pope, above n 2, at 1.12.

## New Zealand’s position

- Upholding the integrity of UNCLOS is a key New Zealand priority. We take opportunities to actively promote it as the constitution of the oceans. For example: New Zealand submitted a *note verbale* to the UN Secretary General in 2021 which outlines New Zealand’s legal position on the South China Sea.
- New Zealand regularly engages in multilateral forums to uphold the unified character of UNCLOS as the constitution of the oceans.
- In 2021 New Zealand marked the 5<sup>th</sup> anniversary of the 2016 Arbitral Award<sup>67</sup> and called on the parties to abide by it.

## Relevant New Zealand legislation

- The Maritime Powers Act came into force in 2022. The Act implements rights New Zealand has under UNCLOS to exercise maritime powers in international waters into domestic law. These maritime powers are law enforcement powers, including the power to stop, board, search and detain a ship and arrest individuals, that apply in respect of both foreign and domestic vessels. It is designed to address criminal offending in international waters, particularly transnational organised crime.

## Stakeholder coordination

- The Ministry of Foreign Affairs and Trade is the Policy Lead for matters pertaining to UNCLOS, including providing legal advice on specific matters relating to UNCLOS, in addition to leading international engagement.

Policy / Strategy <sup>68</sup>	
Lead	Support
MFAT	DPMC, MOD, MFE, MPI, NZ Customs, Antarctic NZ, NZ Police
Intelligence <sup>69</sup>	
Lead	Support
NZIC	NZDF, MFAT, DPMC, NZ Customs, MNZ, NMCC
Operational Delivery <sup>70</sup>	
Lead	Support
Maritime Security Agencies	NMCC, HQJFNZ

### Public information management

Public information management for an incident is likely to be led by MFAT.

67. The South China Sea Arbitration in 2016 ruled that China’s claims had no lawful effect.

68. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

69. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

70. Agency responsible for leading and coordinating the operational (on the ground) response.

## ISSUES AND THREATS

## ➤ South Pacific

### Description

- The centrality of the Pacific for New Zealand underscores the importance of taking a common and integrated approach to ensure a peaceful, stable, prosperous, and resilient Pacific region, in which New Zealand's interests and influence are safeguarded.
- The Pacific region faces a range of growing challenges. These include:
  - The accelerating impacts of climate change are being felt early and deeply in the Pacific. For some countries in the Pacific, the threat is existential.
  - Strategic competition and climate change, as well as the continuing economic and health impacts of COVID-19, intersect with and are amplified by a range of other sources of insecurity. These include long-standing challenges to governance and human security in the Pacific.
- New Zealand has partnerships with Pacific countries which aim to support and build the resilience of the region and address critical development and security challenges.
- New Zealand also works closely with other bilateral partners and regional and multilateral organisations to deliver outcomes in the region and ensure appropriate coordination.
- New Zealand's engagement in the Pacific is underpinned by our support for the regional institutional architecture, including the Pacific Islands Forum, Council of Regional Organisations of the Pacific (CROP) agencies, the 2050 Strategy for the Blue Pacific Continent, and the Boe and Biketawa Declarations.

- For the Pacific, the concept of 'security' extends beyond traditional definitions of security, encompassing issues such as economic and health security, as well as the multi-faceted security threat posed by climate change – which Pacific Leaders in 2018 affirmed as the overriding priority for the region.

### Context

- **Climate change** remains the region's key immediate and long-term challenge. Addressing the direct and indirect impacts of climate change will be one of the greatest global challenges of the coming decades. Climate change impacts present direct human security challenges and also exacerbate the risk factors that contribute to social and political instability, which will mean increased competition for basic resources, more numerous and destructive natural disasters and greater uncontrolled migration. Climate-related migration and relocation are already taking place within the Pacific Islands region, albeit at a much smaller scale than in other regions.
- There are increasing **geostrategic complexities** in the Pacific region, with a range of countries seeking to increase their Pacific engagement and presence for a variety of reasons.

- **Equity, inclusivity and human rights** are critical for enabling effective, resilient and sustainable development, and are directly linked to achieving broad economic growth, well-being, and stability outcomes. COVID-19 has compounded existing challenges and threatens to deepen inequalities, have a negative impact on human rights, and disproportionately harm the most vulnerable communities.
- The Pacific region is also facing increased risk from **non-traditional security threats** such as transnational crime, cybercrime, trafficking in persons, people smuggling and fisheries resource predation. For example, global competition for access to fisheries is already growing, particularly in the Indo-Pacific, as global populations grow and pressure increases on fish stocks. Increased fisheries competition has brought with it increased challenges to Pacific countries' abilities to maintain control over both regional fisheries and their maritime domains. While most such competition may focus on deep water fisheries, increasing pressure will also likely come on coastal fisheries, which are significant for food security.

## Policy and approach for partnership and engagement

As a country in and of the Pacific, New Zealand's policy settings recognise the intrinsic links between Pacific security and New Zealand's national security.

New Zealand's approach for engaging and partnering in the region is guided by the **Pacific Resilience Approach**, as endorsed by Cabinet in October 2021. Under this, our goal for the region is to support a peaceful, prosperous, stable and resilient Pacific in which New Zealand operates as a true partner, including for the shared stewardship of the Pacific Ocean, our Blue Pacific continent. New Zealand's overall approach places Pacific countries at the centre of our engagement, focuses on supporting long-term resilience while supporting Pacific countries to navigate shared, complex challenges, in line with Pacific priorities and a with a high degree of Pacific ownership. Our approach:

- recognises the mana of each nation, reinforcing our whanaungatanga connections to the wider Pacific
- affirms that we will accompany our partners on a path towards achieving the Sustainable Development Goals as a shared commitment
- targets our international development cooperation to support long-term resilience
- harnesses regional and multilateral action to support Pacific priorities.



## ISSUES AND THREATS

The four guiding principles that support this engagement are:

- Tātai Hono – the recognition of deep and enduring whakapapa connections;
- Tātou Tātou – all of us together;
- Whāia te Taumata Ōhanga – journey towards a circular economy;
- Turou Hawaiiki – navigating together; and
- Arongia ki Rangiātea – focus towards excellence.

New Zealand does not want strategic (and especially military) competition in the Pacific that could destabilise the current institutions and arrangements that underpin our region's security. This would not benefit New Zealand or Pacific countries. New Zealand works hard to promote strong, independent Pacific governance, human rights and rule of law, and expects other partners in the Pacific to respect these principles, and be transparent with their actions and intentions.

Our reference point is always what is in the best interests of the region. So we work closely with all of our partners in the region, including both China and the US, to encourage best practice, and to support long-term resilience outcomes in line with Pacific priorities and with a high degree of Pacific ownership. A successful resilience approach will work best when it enables other partners to engage in the region, and work together, in support of Pacific priorities and interests.

## Development and security cooperation – maritime security focus

New Zealand has enduring development cooperation with Pacific partners, aligned with our Pacific Resilience Approach. This includes a \$1.3b climate financing commitment from 2022-25. New Zealand also supports security cooperation in the region, through funding available under the Pacific Security Fund, and through a range of bilateral maritime security initiatives, as well as under the auspices of regional institutions such as the Forum Fisheries Agency.

There are specific elements of New Zealand's development and security cooperation that support maritime security outcomes in the region. These include:

- New Zealand has long-term commitments to support Pacific partners to respond to illegal, unreported and unregulated fishing in the Pacific region. This includes bilateral cooperation, partnerships with the Forum Fisheries Agency, and deployable capabilities to support maritime surveillance for compliance with fisheries management measures.

- New Zealand has worked with Pacific partners to support the Declaration on Preserving Maritime Zones in the Face of Climate Change-Related Sea-Level Rise, through the Pacific Islands Forum. The Declaration makes clear the region’s intention to maintain our maritime zones without reduction, notwithstanding climate change related sea level rise.
- Ministry for Primary Industries provides peer-to-peer support to build fisheries management capacity in the region.
- Maritime New Zealand provides peer-to-peer support to Pacific partners to strengthen port security measures and is engaging with the IMO to deliver workshops focused on maritime security governance and sector strategy development.
- Ministry of Defence provides peer-to-peer support to the Fiji Ministry of Defence to assist with the development of Fiji’s maritime security strategy.
- There are long-standing partnerships between New Zealand agencies and Pacific law enforcement agencies that support capability development and systems strengthening across a range of areas including border security and transnational organised crime. As a member of the Pacific Transnational Crime Network, New Zealand is working closely with Pacific partners to strengthen law enforcement capabilities, including through contributions to the Pacific Transnational Crime Coordination Centre.

### Stakeholder coordination

Policy / Strategy <sup>71</sup>	
Lead	Support
MFAT	DPMC, MOD, MFE, MPI, NZ Customs, NZ Police
Intelligence <sup>72</sup>	
Lead	Support
NZIC	NZDF, NZ Police, DPMC, MPI, NZ Customs, NMCC
Operational Delivery <sup>73</sup>	
Lead	Support
Maritime Security Agencies	RCCNZ, HQJFNZ, Emergency Taskforce (MFAT), NMCC

### Public information management

Public information management for an incident is likely to be led by MFAT.

71. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.  
 72. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.  
 73. Agency responsible for leading and coordinating the operational (on the ground) response.

## ISSUES AND THREATS

## ➤ Southern Ocean

### Description

- The Southern Ocean surrounds Antarctica and represents approximately 15 percent of the world's ocean area. It extends from the coast of the continent northwards to the Antarctic Polar Front, where the cold water of the Southern Ocean meets the warmer sub-Antarctic waters of the Atlantic, Indian and Pacific Oceans.<sup>74</sup>
- The Antarctic and Southern Ocean region has intrinsic value as a natural reserve, devoted to peace and science.

### New Zealand interests

- New Zealand, guided by manaakitanga, is committed to preserving and protecting Antarctica and the Southern Ocean for present and future generations.
- Our interests in the Antarctic region are enduring and were most recently articulated in a public Statement of Commitment in 2019 (Annex 1). The Statement of Commitment acknowledges:
  - the connectedness of the Antarctic and New Zealand environments, and the need for precautionary and ecosystem approaches to protect Antarctica's biodiversity;
  - Antarctica's role in our understanding of global environmental systems and climate change;
  - our cultural, heritage and science links in Antarctica and the Southern Ocean, including Christchurch's role as an international gateway to the Ross Sea region; and
  - the importance of the Antarctic Treaty System (ATS) to keeping our region peaceful, secure and safe and maintaining our claim to the Ross Dependency.

### Antarctic Treaty System (ATS)

- Our interests in Antarctica and the Southern Ocean are best protected and promoted by and through the ATS, which sets aside Antarctica and the Southern Ocean as a natural reserve for peace and science. Amongst other things, the ATS:
  - ensures peace to our South, demilitarising a large part of the world;
  - provides the highest standard for the comprehensive protection of Antarctic environments;
  - requires cooperation in Antarctica;
  - prohibits mineral resource activity indefinitely; and
  - facilitates globally-significant scientific research.
- The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) is the international institution within the ATS that provides the international legal framework for conservation of marine living resources in the Southern Ocean. As of July 2022, 26 Members and 11 Acceding States are party to the CCAMLR Convention.
- CCAMLR is implemented into New Zealand law through the Antarctic Marine Living Resources (AMLR) Act, which specifies the need to conserve Antarctic marine living resources in accordance with the Convention and its objective and principles.

74. The position of the Antarctic Polar Front varies seasonally and geographically, but is generally located near 50°S in the Atlantic and Indian sectors of the Southern Ocean and 60°S in the Pacific sector.

## Risks

- There are pressures on Antarctica. The environment is changing rapidly as a result of climate change and rapid growth in human activity in the region. Over the next ten to fifteen years, we can expect to see increased competition for influence, higher demand for access to Antarctica, and some opportunistic positioning for resources in the region.
- The ATS provides strong and effective governance for Antarctica and the Southern Ocean. The ATS is not immune to global geopolitical dynamics and the wider erosion of the rules-based international system.

## Southern Ocean surveillance

- New Zealand's Antarctic interests are underpinned by a strong and effective ATS, of which we are a part, and we need to continue to actively support and promote it. This includes active involvement and leadership in the meetings of the ATS on policy, science and other technical issues to support good governance, and working with our partners to uphold the rules and institutions.
- New Zealand undertakes maritime surveillance in the Southern Ocean to focus on detecting and deterring illegal, unreported and unregulated (IUU) fishing activity; monitoring compliance with CCAMLR's Conservation Measures; and maintaining situational awareness of maritime activity in the Ross Sea region more generally. Surveillance in the Southern Ocean supports New Zealand's influence in the region; and facilitates scientific research, and environmental monitoring.

- New Zealand's surveillance efforts have been successful in tackling IUU fishing in the Ross Sea; no unlicensed fishing has been detected in the area for at least 10 years, and recent efforts have been focused on supporting compliance of the licensed fleet.

## Stakeholder coordination

Policy / Strategy <sup>75</sup>	
Lead	Support
MFAT	DPMC, MOD, MFE, MPI, NZ Customs, Antarctic NZ, NZ Police
Intelligence <sup>76</sup>	
Lead	Support
NZIC	MPI, NZDF, NMCC,
Operational Delivery <sup>77</sup>	
Lead	Support
Maritime Security Agencies	RCCNZ, HQJFNZ, NMCC,

### Public information management

This is likely to be led by MFAT with support from MPI.

75. Agency responsible for administering the most relevant legislation and providing policy advice to Ministers.

76. Agency responsible for ensuring that the National Security System and lead agency is across relevant threats, hazards and levels of risk.

77. Agency responsible for leading and coordinating the operational (on the ground) response.

## APPENDIX 1

## Appendix 1 – New Zealand’s Commitment to Antarctica and the Southern Ocean (2019)

Antarctica has intrinsic value as a natural reserve, devoted to peace and science. New Zealand, guided by manaakitanga, is committed to preserving and protecting Antarctica and the Southern Ocean for present and future generations.

**New Zealand’s environment is connected to Antarctica and the Southern Ocean. We prioritise the environmental protection of Antarctica and the Southern Ocean; we value healthy and productive ecosystems; and we are committed to protecting biodiversity. We will:**

- Follow environmental best practice in our activities in Antarctica and the Southern Ocean.
- Advocate for the establishment, protection and management of representative special areas in Antarctica and the Southern Ocean.
- Take precautionary and ecosystem approaches to the conservation and sustainable management of living marine resources in the Southern Ocean, particularly in the Ross Sea, supporting strong environmental standards and sustainable economic benefits, and contributing to scientific understanding.
- Be an international leader in efforts to eliminate illegal, unreported and unregulated fishing in the Southern Ocean.

**Antarctica is an essential part of understanding global environmental systems, and is uniquely valuable for scientific research. We are committed to promoting and collaborating on scientific research of the highest standards. We will:**

- Support, lead and share scientific research that increases understanding of the interaction between global systems and Antarctica, and advances New Zealand’s climate change policies and capability to respond to change.
- Be a leader in research in the Ross Sea region Marine Protected Area.
- Ensure Scott Base is an effective and sustainable facility, providing support for the safe conduct of excellent scientific research.

**Antarctica is part of New Zealand’s heritage and future. As the gateway to the Ross Sea region we uphold New Zealand’s role in Antarctic exploration, scientific discovery and collaboration. We will:**

- Celebrate New Zealand’s connection with Antarctica and the Southern Ocean; honouring our linkages through scientific research, environmental protection, conservation, heritage and logistical support.
- Strengthen Christchurch’s position as the international gateway to the Ross Sea region, ensuring we provide high-quality services to, and collaboration with, other nations.
- Maintain air, maritime and terrestrial assets capable of operating in Antarctica and the Southern Ocean.

**New Zealand values a peaceful, secure and safe region. We support the Antarctic Treaty principles and strive to maintain a peaceful, nuclear free and protected Antarctica. We will:**

- Actively engage with our Antarctic partners to sustain a strong and effective governance framework under the Antarctic Treaty system.
- Develop and implement international rules to ensure the comprehensive protection of the Antarctic, ensuring its value as a place for peace and scientific research is prioritised, the impacts of human activity are limited, and safety is promoted.

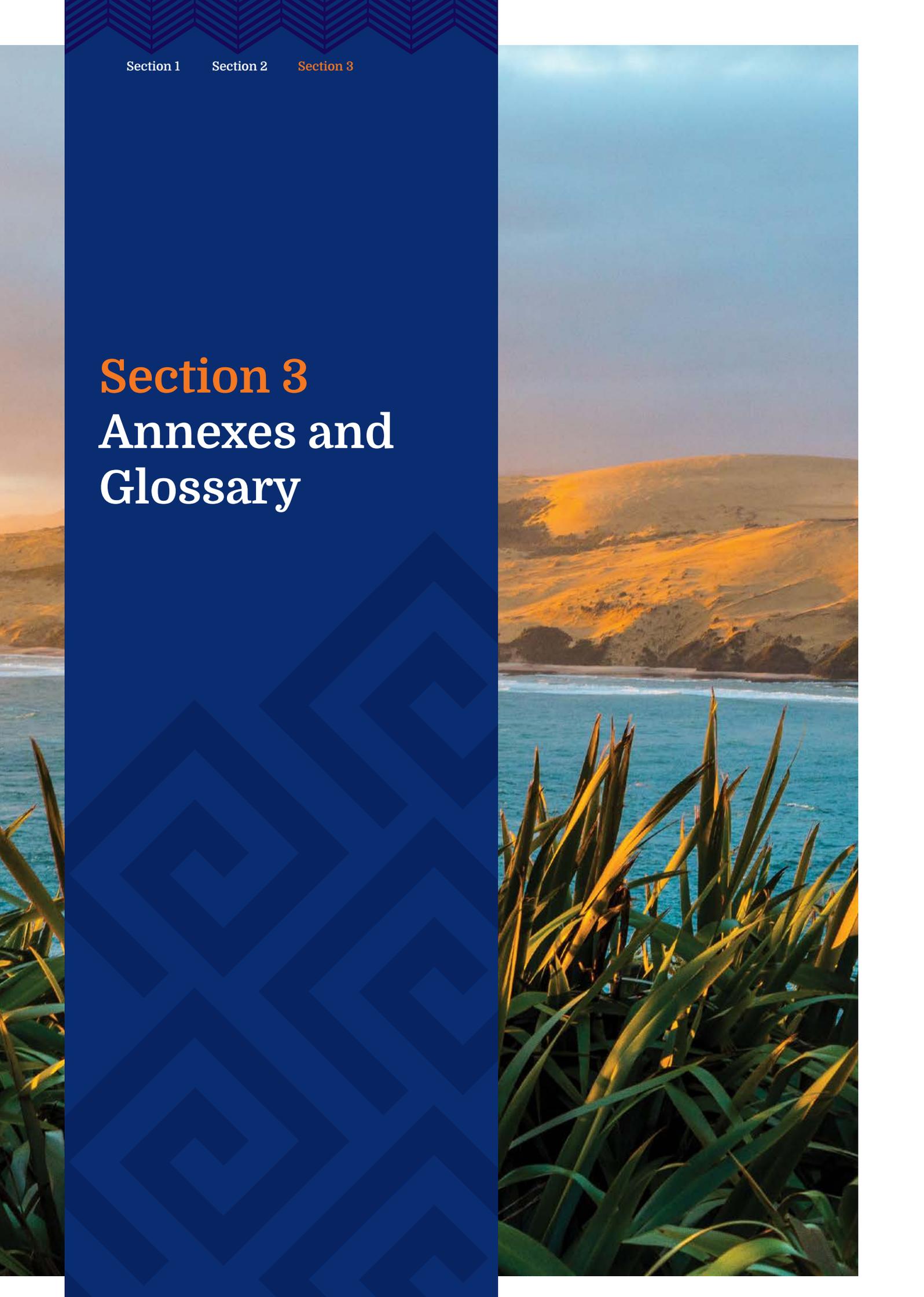
Section 1

Section 2

Section 3

# Section 3

## Annexes and Glossary



# Annex A – Maritime Powers Act

## Introduction

1. New Zealand has the right, at international law, to exercise certain maritime powers (to stop, board and search a ship and arrest suspects) in international waters. However, there were gaps in New Zealand law which this Act closed by implementing rights New Zealand already has at international law into domestic law. In doing so the Act provides New Zealand law enforcement agencies with a clear statutory basis to exercise enforcement powers in international waters:
  - a. The international law basis for these rights is the UN Convention on the Law of the Sea (UNCLOS) which provides that vessels are subject to the exclusive jurisdiction of the state they are registered in (flag state). This means that states are required to effectively exercise their jurisdiction and control over ships that fly their flag, which includes the enforcement of their criminal law. New Zealand is therefore able to exercise maritime powers in relation to offences that take place on board New Zealand vessels in international waters.
  - b. New Zealand is also able to exercise maritime powers in relation to certain offences on foreign vessels in international waters, where we have **consent of the flag state** or where we have a specific right to do so under UNCLOS.
  - c. There are limited situations where New Zealand **does not need the consent of the flag state** to exercise maritime powers in international waters. These include where a foreign ship in the high seas is engaged in piracy or the slave trade (Article 110). New Zealand also does not need flag state consent in respect of offences involving artificial islands, installations and structures within the outer limits of its continental shelf (Article 60 and Article 80).
3. The Act provides that its powers can be exercised by *enforcement officers*, who are defined as constables, **Customs** officers, members of the **Armed Forces, Department of Conservation Rangers, Warranted Officers** and **Endangered Species Officers**.
4. In providing these powers, the Act essentially extends, with appropriate modifications, domestic law enforcement powers that New Zealand already has, into international waters. Subject to certain limitations and safeguards, addressed below, the powers are exercisable in response to serious criminal offending against New Zealand law including:
  - a. offences that take place on board a New Zealand vessel in international waters;
  - b. offences that take place on board a foreign vessel in international waters; and
  - c. situations where an alleged offender or evidence of criminal offending is located on a New Zealand or foreign vessel in international waters.
5. Subject to relevant thresholds being met enforcement officers have the power to stop a ship, board it, detain it and search it, seize evidence, and arrest suspects. Also, they have the power to direct a ship to New Zealand or another customs place if necessary for further enforcement action such as carrying out a further search.
6. The powers are only available in respect of serious offences against New Zealand law, which are offences punishable by two or more years imprisonment. This threshold reflects that the Act is intended to respond to serious criminal offending at sea, particularly transnational organised crime.

7. The Act has safeguards to ensure that the maritime powers it establishes are exercised consistently with international law and in a fair, reasonable and proportionate way:
  - a. The New Zealand Bill of Rights Act 1990 applies to the exercise of any powers in the Act in particular, this means any search or seizure needs to be reasonable (section 21), and a person cannot be arbitrarily detained (section 22).
  - b. The Act requires enforcement officers to report on the exercise of any powers in the Act to a relevant person in their respective agencies and to the Secretary of Foreign Affairs and Trade. This ensures a degree of oversight to ensure the powers are exercised consistently and appropriately.
  - c. Domestic courts will provide an additional degree of oversight as the powers will generally be exercised with a view to securing a prosecution. Given the significant cost of operations in international waters, there will always be a strong incentive for enforcement officers to ensure correct processes are followed to support a successful prosecution.
8. The Act does not create any new substantive offences or expand the jurisdiction of any existing offences. It simply establishes enforcement powers to assist New Zealand agencies in responding to serious criminal offences against New Zealand law that occur in international waters.
10. The Act contains a broad clause that preserves the functions, duties, and powers under other Acts. This means that fisheries enforcement in New Zealand fisheries waters and on the high seas will remain subject to the Fisheries Act 1996. It also means that the New Zealand Defence Force (NZDF) will continue to participate in international operations without a law enforcement component in reliance on the Royal prerogative.
11. Example of a gap this Act fills:
  - If a serious assault occurred on a New Zealand yacht in the Auckland harbour, NZ Police would have clear statutory enforcement powers to respond. They would be able to stop the vessel and board it, detain it, search it, seize evidence, and arrest any suspects. However, if that same crime occurred on a New Zealand yacht further than 12 nautical miles from New Zealand's coast, which is the boundary for international waters, it is not clear in our domestic legislation how New Zealand could respond.

## Annex B – International arrangements

### Organisations

New Zealand is a member of a number of regional and multilateral international bodies that have links to maritime security.

The **United Nations** (UN) is central to global efforts to solve problems that challenge humanity. Currently made up of 193 **Member States**, the **UN and its work** are guided by the purposes and principles contained in its founding **Charter**. Cooperating in this effort are more than 15 specialised agencies (including the IMO) and several programmes and bodies, known together as the UN system. The UN and its family of organisations work to keep peace throughout the world; develop friendly relations among nations; support the fulfilment of universal human rights; protect the environment; support the delivery of critical humanitarian assistance; improve global health security; and support international cooperation to enable shared governance of the seas, sky, and space, fight disease, and reduce poverty. UN agencies define the standards for safe, secure and efficient air travel and help improve telecommunications and enhance consumer protection. The UN leads a number of international campaigns, including against transnational organised crime and terrorism.

The **International Maritime Organization** (IMO) is responsible for developing and maintaining a comprehensive regulatory framework for shipping. Its remit includes safety, environmental concerns, legal matters, technical cooperation, maritime security and the efficiency of shipping. A specialised agency of the UN with 167 member states and three associate members, IMO is based in the UK and has around 300 international staff.

The **International Atomic Energy Agency** (IAEA), works for the safe, secure and peaceful uses of nuclear energy. The IAEA's work also includes setting the framework for cooperative efforts to build and strengthen an international nuclear safety and security regime, and verifying states' fulfilment of their non-proliferation undertakings under the NPT.

The **Organisation for the Prohibition of Chemical Weapons** works to prevent proliferation of chemical weapons, through the application of the verification and implementation measures provided for in the Chemical Weapons Convention, which also serve to build confidence between state parties.

## Legally binding instruments (conventions, treaties and agreements)

New Zealand is signatory or party to the following international conventions and agreements, which contribute to the management of security threats in the global maritime domain:

The **United Nations Convention on the Law of the Sea** (UNCLOS) provides a comprehensive regime dealing with all matters relating to the law of the sea. The United National Convention on the Law of the Sea Act 1996 completes the implementation in the law of New Zealand of UNCLOS. UNCLOS establishes a legal order of the seas and helps ensure an equitable and efficient utilisation of marine resources; conservation of living resources; and the study, protection and preservation of the marine environment. It enshrines the notion that all problems of ocean space are closely interrelated and need to be addressed as a whole. Consistent with UNCLOS and pursuant to proclamations under the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 New Zealand has a 12 nautical mile territorial sea, a 24 nautical mile contiguous zone and a 200 nautical mile Exclusive Economic Zone (EEZ).

UNCLOS reflects a carefully negotiated balance of rights and obligations which was hard fought and which protects some of New Zealand's and the Pacific's core interests. UNCLOS established New Zealand's rights to an Exclusive Economic Zone (EEZ) and extended Continental Shelf. It enshrines the freedoms of navigation and overflight that ensure secure trade routes, and provides for protection and preservation of the marine environment, including living and non-living resources.

The **Antarctic Treaty System (ATS)** establishes Antarctica as a natural reserve devoted to peace and science and puts in place principles for the governance of the region. Among other things, the ATS:

- ensures peace to our South, demilitarising a large part of the world;
  - provides the highest standard for the comprehensive protection of Antarctic environments;
  - requires cooperation in Antarctica;
  - prohibits mineral resource activity indefinitely; and
  - facilitates globally-significant scientific research.
- The Antarctic Treaty System is made up of four major international agreements: the 1959 Antarctic Treaty; the 1972 Convention for the Conservation of Antarctic Seals; the 1980 Convention on the Conservation of Antarctic Marine Living Resources; and the 1991 Protocol on Environmental Protection to the Antarctic Treaty. These agreements are legally binding and purpose-built for the unique geographical, environmental and political characteristics of the Antarctic.
  - The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) is the international institution within the ATS that provides the international legal framework for conservation of marine living resources in the Southern Ocean. As of July 2022, 26 Members and 11 Acceding States are party to the CAMLR Convention.
  - CCAMLR is implemented into New Zealand law through the Antarctic Marine Living Resources (AMLR) Act, which specifies the need to conserve Antarctic marine living resources in accordance with the Convention and its objective and principles.

## ANNEX B

## Conservation

The **Agreement on the Conservation of Albatrosses and Petrels** (ACAP) seeks to conserve albatrosses and petrels by coordinating international activity to mitigate known threats to their populations. ACAP came into force in February 2004 and currently has 13 member countries and over 30 species of albatrosses, petrels and shearwaters.

The **Convention on International Trade in Endangered Species** entered into force generally in 1975, and now has over 180 Parties. This convention aims to regulate and monitor trade in endangered animal and plant species to ensure it does not threaten their long-term survival in the wild. Over 38,000 species are covered by CITES. Each party to CITES must enact their own domestic legislation to bring CITES obligations into force. In New Zealand, this is the Trade in Endangered Species Act 1989 (TIES Act) and Trade in Endangered Species Regulations 1991. The Department of Conservation is the Management Authority for CITES in New Zealand.

The **Convention for the Protection of the World Cultural and Natural Heritage (World Heritage Convention)** is an international agreement that was adopted by the General Conference of UNESCO in 1972. The most significant feature of the 1972 World Heritage Convention is that it links together the concepts of nature conservation and the preservation of cultural properties. The Convention is based on the premise that certain places on earth are of 'outstanding universal value' and therefore they should be identified and safeguarded by the international community as a whole.

The Convention is administered by the World Heritage Committee, which is an elected body comprising representatives of 21 nations. Over the past 30 years the World Heritage Convention has become the foremost international legal tool in support of the conservation of the world's cultural and natural heritage. Today, 182 countries (called States Parties) have ratified the Convention.

The **International Convention for the Regulation of Whaling** entered into force generally and for New Zealand in 1946 to provide for the proper conservation of whale stocks. It governs the commercial, scientific, and aboriginal subsistence whaling practices of 89 member nations. New Zealand is a strong advocate for the protection of whales and a founding member of the International Whaling Commission.

## **Fisheries, including fisheries surveillance and law enforcement**

The **Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas** entered into force generally in 2003 and for New Zealand in 2005. This agreement promotes compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas by specifying flag states' responsibilities in respect of fishing vessels entitled to fly their flags and operating on the high seas; authorisation by the flag state of such operations; establishment of vessel record; strengthened international cooperation and increased transparency through the exchange of information on high seas fishing.

The **Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement – FSA)** entered into force in 2001. The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

The **Convention on the Conservation of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean** (Western and Central Pacific Fisheries Convention) entered into force generally and for New Zealand in 2004. The objective of this Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the 1982 Convention and the Agreement. This convention established the Western and Central Pacific Fisheries Commission, the purpose of which is to implement the Convention.

The **Convention for the Conservation of Southern Bluefin Tuna** entered into force generally and for New Zealand in 1994. The objective of Convention is to ensure, through appropriate management, the conservation and optimum utilisation of Southern Bluefin Tuna.

The **Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific** entered into force generally in 1991 and for New Zealand in 1991. This convention seeks to have the practice of longline drift-netting in the South Pacific region prohibited. Relevant legislation includes the Driftnet Prohibition Act 1991 (MPI administering agency).

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The **Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean** entered into force generally and for New Zealand in August 2012. The aim of this Convention is to ensure the long-term conservation and sustainable use of fishery resources in the South Pacific Ocean and in so doing safeguarding the marine ecosystems in which the resources occur.

The **Niue Treaty** is an initiative against IUU fishing in the Pacific region. It aims to foster regional cooperation in fisheries legislation, surveillance and law enforcement. The treaty provides a framework to promote maximum effectiveness in regional fisheries surveillance and enforcement through cooperation between countries in the region. The main benefits include assistance to countries with inadequate surveillance and enforcement capabilities and the creation of facilities to follow the movement of fishing vessels from one zone to another. New Zealand ratified the Niue Treaty on 16 August 2005.

The **Agreement on Strengthening Implementation of the Niue Treaty on Cooperation in the South Pacific Region** seeks to enhance active participation in cooperative surveillance and enforcement in the region by providing a framework for Parties to share resources and exchange information, including fisheries data and intelligence. The objective of this cooperation is to (i) maximise the operational reach and effectiveness of fisheries monitoring, control and surveillance tools; (ii) prevent, deter and eliminate IUU fishing; and (iii) contribute to broader regional law enforcement efforts. The ultimate purpose of this coordination is to support the continuous improvement of the management and development of the fishery resources in the region, ensuring their sustainability, and maximising social and economic benefits from them. This entered into force in New Zealand in 2019.

## Safety at Sea

The **International Convention for the Safety of Life at Sea** in various forms has been in force in New Zealand since 1935. This convention specifies the minimum standards for the construction, equipment and operation of ships, compatible with their safety.

The **Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention)** entered into force generally in 1992 and for New Zealand in 1999. The main purpose of this convention is to ensure that appropriate action is taken against persons committing unlawful acts against ships. These include the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to destroy or damage it.

The **Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf** is a protocol to the SUA Convention which broadens the list of acts made unlawful under the Convention, to include new offences relating to the use of fixed platforms for terrorist purposes. The 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf were further updates to the SUA Convention.

The **Customs Convention on Containers** entered into force generally in 1975 and for New Zealand in 1975 to develop and facilitate international carriage by container.

## ANNEX B

## Hazardous materials

The **International Convention for the Control and Management of Ships' Ballast Water and Sediments** (BWS Convention) 2004, was ratified by New Zealand and entered into force generally in 2017. The Convention is the international response to managing the biosecurity and risk of harm to human health, property and resources from ballast water. The Convention seeks to prevent, minimise and ultimately eliminate the risks arising from the transfer of harmful aquatic organisms and pathogens in ballast water by controlling and managing ships' ballast water and sediments.

The **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal** (Basel Convention) is the most comprehensive global environmental agreement on hazardous and other wastes. The convention has over 170 parties and aims to protect human health and the environment against the adverse effects of hazardous wastes. Its scope of application covers a wide range of wastes defined as "hazardous wastes" based on their origin and/or composition and their characteristics, as well as two types of wastes defined as "other wastes" – household waste and incinerator ash. It entered into force for New Zealand in 1995.

The **International Convention for the Prevention of Pollution from Ships (MARPOL)** is the main international convention covering prevention of pollution of the marine environment by ships from operational or accidental causes. The MARPOL Convention was adopted on 2 November 1973 at IMO.

New Zealand is party to the following MARPOL Convention Annexes:

- Annex I Regulations for the Prevention of Pollution by Oil (entered into force 2 October 1983)
- Annex II Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk (entered into force 2 October 1983)
- Annex III Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Form (entered into force 1 July 1992)
- Annex V Prevention of Pollution by Garbage from Ships (entered into force 31 December 1988)
- Annex VI Prevention of Air Pollution from Ships (entered into force 19 May 2005).

### **The International Convention on Oil Pollution Preparedness, Response and Co-operation**

entered into force in New Zealand in 1999. This convention requires parties to establish measures for dealing with pollution incidents, either nationally or in cooperation with other countries. Ships are required to carry a shipboard oil pollution emergency plan. Operators of offshore units under the jurisdiction of Parties are also required to have oil pollution emergency plans or similar arrangements which must be coordinated with national systems for responding promptly and effectively to oil pollution incidents. Ships are required to report incidents of pollution to coastal authorities and the convention details the actions that are then to be taken.

Parties to the convention are required to provide assistance to others in the event of a pollution emergency and provision is made for the reimbursement of any assistance provided.

### **The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties**

entered into force generally in 1975 and for New Zealand in 2014. This convention affirms the right of a coastal state to take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate danger to its coastline or related interests from pollution by oil, or the threat thereof, following upon a maritime casualty. The convention applies to all seagoing vessels except warships or other vessels owned or operated by a state and used on government non-commercial service.

The **International Convention on Civil Liability for Oil Pollution Damage 2001** entered into force for New Zealand in 2014. The International Convention on Civil Liability for Oil Pollution Damage 1992 and the **International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992** ensure that compensation is available for damage caused by pollution from oil cargoes carried in bulk at sea. The **International Convention on Civil Liability for Bunker Oil Pollution Damage (BUNKER) 2001** establishes a liability regime for damage from bunker oil spills. The regime consists of strict but limited liability for ship owners and requirements for compulsory insurance to cover that liability.

## ANNEX B

## Weapons and nuclear materials

The **Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction** entered into force generally and for New Zealand in 1997. The CWC bans the development, production, acquisition, stockpiling, retention and direct or indirect transfer of chemical weapons. It also prohibits the use or preparation for use of chemical weapons and the assistance, encouragement, or inducement of anyone else to engage in activities prohibited by the CWC.

The **Convention on the Physical Protection of Nuclear Material** entered into force generally and for New Zealand in 2004. The Physical Protection Convention has a twofold objective: it establishes levels of physical protection required to be applied to nuclear material used for peaceful purposes while in international nuclear transport and it also provides for measures against unlawful acts with respect to such material while in international nuclear transport as well as in domestic use, storage and transport. Following the events of 11 September 2001, States Parties to the CPPNM agreed to improve the CPPNM by extending its scope to cover the physical protection of nuclear facilities and domestic transport, storage and use of nuclear material, thereby strengthening the global nuclear security regime.

The **South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga)** entered into force generally and for New Zealand in 1986. It is a regional nuclear non-proliferation treaty, by which New Zealand and a number of Pacific Island states agree to ban the use, testing and possession of nuclear weapons within a defined zone within the South Pacific and to ensure that the provision of nuclear material is for peaceful purposes and subject to appropriate safeguards.

The **Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction** entered into force generally and for New Zealand in 1975. This convention requires states to never in any circumstances develop, produce, stockpile, acquire or retain biological agents or toxins and weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes in armed conflict. States are required to destroy or divert to peaceful purposes all such agents, toxins and related equipment.

The **Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof** entered into force generally and for New Zealand in 1972 as a step toward disarmament, the reduction of international tensions and the maintenance of world peace. The treaty prohibits the placement of nuclear weapons, or other weapons of mass destruction, or structures for launching, storing, testing, or using such weapons on or under the seabed and the ocean floor.

The **Treaty on the Non-Proliferation of Nuclear Weapons** entered into force generally and for New Zealand in 1970. The treaty seeks to prevent the spread of nuclear weapons and weapons technology, to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament.

The **Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water** entered into force generally and for New Zealand in 1963. This treaty, which preceded the Comprehensive Test Ban Treaty and the Non-Proliferation Treaty, banned all nuclear testing except for underground testing.

## Other

The **United Nations Convention Against Transnational Organised Crime** was adopted in November 2000 and entered into force in New Zealand in 2003. It aims to promote cooperation to prevent and combat transnational organised crime more effectively.

- The **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children** aims to prevent and combat trafficking in persons, paying particular attention to women and children; protect and assist the victims of such trafficking, with full respect for their human rights; and promote cooperation among states in order to meet those objectives. Entered into force for New Zealand in 2003.
- The **Protocol Against the Smuggling of Migrants by Land, Sea and Air** further supplements this convention and aims to prevent and combat the smuggling of migrants and to promote cooperation among states to that end, while protecting the rights of smuggled migrants. Entered into force for New Zealand in 2004.

The **United Nations Convention Against Illicit Traffic of Narcotic Drugs and Psychotropic Substances** entered into force generally in 1990 and for New Zealand in 1999. It promotes cooperation among the parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances.

The **United Nations Convention Relating to the Status of Refugees** entered into force in 1954 and was followed by the Protocol relating to the Status of Refugees, which entered into force in 1960 for New Zealand. This convention defines refugees and the obligations of signatory countries towards them.

**ANNEX B**

## Plans and initiatives

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New Zealand participates in the following international plans and initiatives, which contribute to managing security threats in the global maritime domain.

The **Proliferation Security Initiative (PSI)** is a global effort that aims to combat the proliferation of weapons of mass destruction (WMD). Around 107 countries have endorsed the PSI Statement of Interdiction principles, which commit participants to establish a more coordinated and effective basis through which to impede and stop WMD, their delivery systems, and related items. The PSI builds on existing multilateral non-proliferation efforts, and makes clear that any action under the PSI will be consistent with national authorities and relevant international law.

The **International Plan of Action (IPOA) to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing** was produced by the UN Food and Agriculture Organization (FAO) in 2001. MPI and MFAT represents New Zealand in the FAO. The objective of this plan is to prevent, deter and eliminate IUU fishing by providing all states with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organisations established in accordance with international law.

The **International Ship and Port Facility Code**, adopted by the IMO in 2004, contains detailed security-related requirements for governments, port authorities and shipping companies in a mandatory section (Part A), and a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B).

The United Nations **Global Counter-Terrorism Strategy** was adopted by the UN General Assembly in 2006. The strategy is a unique instrument to enhance national, regional and international efforts to counter terrorism. Member states have agreed to a common strategic and operational approach to fight terrorism and have resolved to take practical steps individually and collectively to prevent and combat terrorism. A number of UN Security Council resolutions were issued prior to this strategy being adopted, including: 2001 – 1373; 2004 – 1535. Additional UN Security Council resolutions have been issued in support of this strategy and follow-on arrangements, including: 2007 – 1787; 2008 – 1805.

## Forums, committees and groups

### Regional

The **Pacific Islands Forum** is the region's premier political and economic policy organisation. Founded in 1971, it comprises 18 members: Australia, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Kiribati, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

The Forum's Pacific Vision is for a region of peace, harmony, security, social inclusion and prosperity, so that all Pacific people can lead free, healthy, and productive lives. The Pacific Islands Forum works to achieve this by fostering cooperation between governments, collaboration with international agencies, and by representing the interests of its members.

The Pacific has a number of **regional agencies**, including:

- **Forum Fisheries Agency**  
Advice and services to enable Pacific countries to maximise the economic and social benefits from the sustainable management of their tuna fisheries.
- **Pacific Islands Forum Secretariat**  
Policy advice to stimulate regional economic growth and enhance political governance and security; along with coordinating implementation of Pacific Leaders' decisions.
- **The Pacific Community (SPC)**  
Scientific and technical services in agriculture, public health, geosciences, fisheries, statistics, educational assessment, disaster risk reduction, transport, energy, climate change, gender, youth and human rights.

- **Secretariat for the Pacific Regional Environment Programme (SPREP)**  
Technical assistance in climate change, biodiversity and ecosystem management, waste management and pollution control, and environmental monitoring.
- **University of the South Pacific**  
The Pacific's regional university, providing higher education including distance and flexible learning.

Established in 1994, the **ASEAN Regional Forum (ARF)** is an important platform for consultation on regional security and political issues, and on global matters that affect the Indo-Pacific region. New Zealand's participation is particularly focused on preventive diplomacy, ship profiling for maritime security, disarmament and non-proliferation of weapons, countering illicit drugs, disaster response and countering terrorism and transnational crime.

The ARF comprises 27 members, including the 10 ASEAN member states (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam). New Zealand participates as a dialogue partner. The ARF's priorities include: confidence-building and preventive diplomacy, counter-terrorism and transnational crime, disaster relief, maritime security, and disarmament and non-proliferation of weapons.

The **East Asia Summit (EAS)** process was initiated in 2005 with the convening of the 1st East Asia Summit in Kuala Lumpur, Malaysia. At its inception, the East Asia Summit comprised 16 participating countries, namely ASEAN Member States, Australia, China, India, Japan, New Zealand, and the Republic of Korea.

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The East Asia Summit has identified six priority areas of cooperation, namely environment and energy, education, finance, global health issues and pandemic diseases, natural disaster management, and ASEAN Connectivity. Plans of Actions have been developed to promote cooperation on these priority areas. The East Asia Summit also discusses cooperation in other areas and emerging issues such as food security, trade and economics, maritime security and cooperation, and traditional and non-traditional security issues.

### Fisheries

The **Western and Central Pacific Fisheries Commission** was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean which entered into force on 19 June 2004. It was set up to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean. More information can be found here: [About WCPFC | WCPFC](#).

The **Pacific Islands Forum Fisheries Agency (FFA)** was established to help countries sustainably manage their fishery resources that fall within their 200 mile Exclusive Economic Zones (EEZs). FFA is an advisory body providing expertise, technical assistance and other support to its members who make sovereign decisions about their tuna resources and participate in regional decision making on tuna management through agencies such as the Western and Central Pacific Fisheries Commission (WCPFC). Member states are Australia, Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

The **Asia-Pacific Fishery Commission** was established under an agreement as the Indo-Pacific Fisheries Council in 1948 by the FAO. The Commission is an Article XIV FAO Regional Fishery Body established by FAO at the request of its members, which includes New Zealand. A number of international plans of action (IPOAs) have been developed that align within the framework of the Code of Conduct for Responsible Fisheries issued by the FAO:

- IPOA for the Conservation & Management of Sharks
- IPOA to Prevent, Deter and eliminate Illegal, unreported and unregulated Fishing
- IPOA for the Management of Fishing Capacity
- IPOA Reducing Incidental Catch of Seabirds in longline Fisheries
- IPOA to Promote Responsible Fishing Practices.

### Piracy

The **Regional Cooperation Agreement on Combating Piracy and Armed Robbery in Asia (ReCAAP)** entered into force in September 2006. It is the first government-to-government agreement designed to enhance cooperation against piracy and armed robbery in Asia. The agreement sets out the obligations of member countries and provides a framework for the exchange of information. The obligations of member countries include prevention and suppression of piracy and armed robbery, the arrest of perpetrators and seizure of vessels or craft used to carry out attacks, and the rescue of victims of attacks. Singapore is the host country for the Information Sharing Centre, which was established in November 2006 to facilitate the sharing of piracy related information. Member countries are Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Denmark, India, Germany, Japan, Republic of Korea, Laos, Myanmar, Netherlands, Norway, Philippines, Singapore, Sri Lanka, Thailand, the United Kingdom and Vietnam.

The plan to establish the **Regional Anti-Piracy Prosecutions and Intelligence Coordination Centre (RAPPICC)** in the Seychelles was announced by the United Kingdom at the time of the London Conference on Somalia in February 2012. RAPPICC was established to fill a hole in the international counter-piracy effort, specifically designed to collect and analyse intelligence with a view to prosecuting pirate leaders, financiers and enablers.

The **Contact Group on Piracy off the Coast of Somalia (CGPCS)** was convened by the United States in January 2009. The CGPCS coordinates international efforts to suppress piracy off the coast of Somalia and provides an important avenue of communication between contributing states, regional organisations and commercial maritime organisations.

## **Non-legally binding instruments (arrangements, declarations, MOAs, MOUs and codes of conduct)**

### **Fisheries**

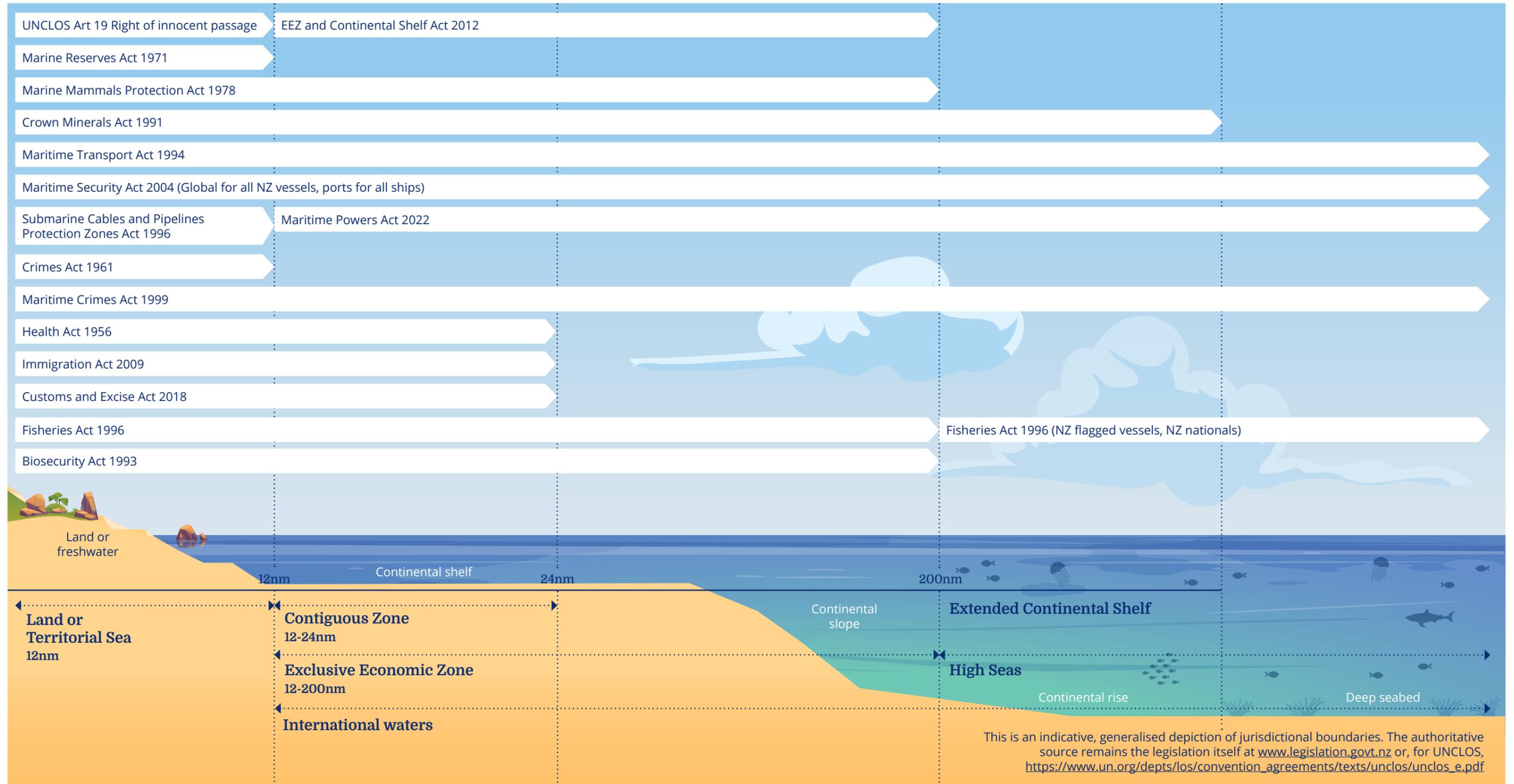
The **Arrangement between the Government of Australia and the Government of New Zealand for the Conservation and Management of Orange Roughy on the South Tasman Rise (Orange Roughy Arrangement)**, signed in 2000, is an arrangement for the conservation and management of orange roughy on the Southern Tasman Rise. The arrangement stipulates total catch and quota for this fish stock between the two nations.

The **Code of Conduct for Responsible Fisheries** produced by the UN's Food and Agriculture Organization describes the principles and standards applicable to the conservation, management and development of all fisheries. It also covers the capture, processing and trade of fish and fishery products, fishing operations, aquaculture, fisheries research and the integration of fisheries into coastal area management.

### **Other**

The **Directives for Maritime Rescue Coordination Centres on Acts of Violence Against Ships** were issued by the IMO under the SFA arrangements.

# Annex C – Maritime security legislation summary



## GLOSSARY

# Glossary

<b>Agency (government)</b>	means any governmental, semigovernmental, administrative, fiscal, judicial or quasijudicial body, department, commission, authority, tribunal, agency or entity.
<b>CMMs</b>	conservation and management measures means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law.
<b>Contiguous zone</b>	The contiguous zone is an area adjacent to the territorial sea, which extends up to 24 nautical miles from the Territorial Sea Baseline. Within this zone, as a matter of international law, New Zealand may exercise control necessary to prevent and punish infringement of its customs, fiscal, immigration and sanitary laws and regulations within its Territory or territorial sea.
<b>Continental shelf</b>	The continental shelf is the area of the seabed and subsoil which extends beyond the territorial sea throughout the natural prolongation of New Zealand's land territory and up to a distance as permitted in the United Nations Convention on the Law of the Sea.
<b>Critical infrastructure</b>	are those physical facilities, supply chains, information technologies and communication networks whose destruction, degradation or unavailability would have a significant impact on the social or economic wellbeing of the nation, or would affect New Zealand's ability to conduct national defence and ensure national security. Some elements in these sectors are not strictly infrastructure; however, they form part of the network or supply chains that support the delivery of an essential product or service.
<b>DOC</b>	Department of Conservation
<b>DPMC</b>	Department of the Prime Minister and Cabinet
<b>EPA</b>	Environmental Protection Agency
<b>Exclusive economic zone (EEZ)</b>	is the area beyond and adjacent to New Zealand's territorial sea, the outer limit of which does not extend beyond 200 nm from the baseline. Within the EEZ, New Zealand exercises sovereign rights for the purpose of exploring, exploiting, conserving and managing all natural resources of the waters immediately above the seabed, and of the seabed and its subsoil, together with other activities such as the production of energy from water, currents and wind.
<b>FENZ</b>	Fire and Emergency New Zealand
<b>GNZ</b>	Geoint NZ
<b>HQJFNZ</b>	Headquarters Joint Forces New Zealand
<b>Intelligence</b>	is the product resulting from the processing of information about maritime security threats and the maritime environment that supports the conduct of planning and operations.
<b>Internal waters</b>	are those waters that lie landward of the baseline and typically comprise bays, estuaries and ports.
<b>ITOC</b>	Integrated Targeting and Operations Centre

<b>Lead agency</b>	is the government-designated agency responsible for leading the management of an issue. For a given issue, the lead agency may change depending on the phase of management (prevention, preparedness, response or recovery). The lead agency might not be the agency that actually executes the response.
<b>MBIE</b>	Ministry of Business, Innovation and Employment
<b>MFAT</b>	Ministry of Foreign Affairs and Trade
<b>MFE</b>	Ministry for the Environment
<b>MNZ</b>	Maritime New Zealand
<b>MOD</b>	Ministry of Defence
<b>MOH</b>	Ministry of Health
<b>MOT</b>	Te Manatū Waka Ministry of Transport
<b>MPI</b>	Ministry for Primary Industries
<b>NDIB</b>	National Drug Intelligence Bureau
<b>NEMA</b>	National Emergency Management Agency
<b>NMCC</b>	National Maritime Coordination Centre
<b>NZCS</b>	NZ Customs Service
<b>NZDF</b>	NZ Defence Force
<b>NZIC</b>	New Zealand Intelligence Community
<b>NZP</b>	NZ Police
<b>NZSAR</b>	New Zealand Search and Rescue
<b>Planning</b>	is the process of identifying future maritime security threats, assessing their likelihood, estimating their potential consequences and then determining objectives, policies and strategies for employing resources to mitigate the risks posed by those security threats.
<b>Prevention and preparedness</b>	are the risk mitigation measures that government agencies and other stakeholders take to either deter, disrupt or prevent security threats, or to minimise the adverse consequences if prevention is unsuccessful.
<b>RCCNZ</b>	Rescue Coordination Centre New Zealand
<b>Reconnaissance</b>	is targeted surveillance.

## GLOSSARY

<b>Recovery</b>	<p>is the coordinated process of supporting individuals and communities affected by the consequences of the threat.</p> <p>Recovery involves a range of government services, including health, social and financial services, provided to those requiring it.</p>
<b>Response</b>	is the actions taken within the stakeholder's jurisdiction to mitigate or eliminate the risk posed by detected maritime security threats.
<b>SAR</b>	Search and Rescue
<b>Search and Rescue Region (SRR)</b>	is that part of the world in which a nation has responsibility for the safety of life at sea (for maritime components of the SRR) and for assistance to people in distress.
<b>Security threat</b>	is any action, device or event that has potential to cause consequences adverse to New Zealand's interests.
<b>Statutory authorities</b>	are established under specific legislation that defines the purpose for which they are established and the general functions for which they are responsible.
<b>Surveillance</b>	is systematic observation by visual, electronic, photographic or other means.
<b>Territorial sea</b>	is the belt of water not exceeding 12 nm in width as measured from the territorial sea baseline. Sovereignty extends to the territorial sea, its bed and subsoil, and to the airspace above it. The sovereignty is exercised in accordance with international law, and is subject to the right of innocent passage for foreign ships.
<b>Territorial sea baseline</b>	is the line from which seaward limits of New Zealand's maritime zones are measured. The baseline normally corresponds with the low-water line along the coast and includes the coasts of islands. There are exceptions to the normal baselines, including straight baselines and bay closing lines.

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EMPOWERING  
AND LEADING



**KAITIAKITANGA**  
GUARDIANSHIP AND  
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