

Office of the Minister for the Environment

Chair

Cabinet Economic Growth and Infrastructure Committee

Establishment of a Kermadec Ocean Sanctuary

Proposal

1. This paper seeks your agreement to:
 - a. establish a Kermadec Ocean Sanctuary
 - b. issue drafting instructions for legislation to establish the sanctuary
 - c. announce the establishment of the sanctuary at the United Nations General Assembly on or about 1 October 2015.

Executive summary

2. The paper proposes New Zealand establishes a 620 000 km² Ocean Sanctuary in the Kermadec region with the purpose of protecting the area in its natural state. The area contains the longest volcanic arc, the second deepest ocean trench (at 10 km) and is one of the most pristine places on Earth. The area is home to 6 million seabirds of 39 different species, 35 species of whale and dolphin, three species of marine turtle (all endangered) and thousands of species of fish and other marine life, many of which are unique to this unusual habitat.
3. This proposal is consistent with the Government's domestic policy of improving New Zealand's coastal and oceans management. We have effective and modern legislation for managing fisheries. We have implemented legislation for managing environmental effects of activities in the exclusive economic zone (EEZ) and extended continental shelf. We have outlined our policy of replacing the Marine Reserves Act and will be releasing a discussion paper on a new system of marine protected areas later this year.
4. New Zealand is a globally significant maritime nation that has long taken a leadership position on international issues on oceans. We have also been successful in progressing international negotiations to improve marine management in the high seas and deep seabed. In June this year, we jointly sponsored a resolution in the United Nations to advance work on a new treaty to better conserve and manage the 64% of oceans outside national jurisdictions. We continue our diplomatic efforts to secure a significant marine protected area in the Ross Sea.
5. New Zealand is a party to the Convention on Biological Diversity (CBD) and has subscribed to the 'Aichi Target II' to set aside by 2020 10% of our coastal and marine space in protected areas. Currently New Zealand has no areas fully

protected in the EEZ and 9.7% of our territorial sea under protection. This proposal would see 15% of the EEZ protected.

6. Other nations have recognised the importance of large fully protected areas in the Pacific, with 1 058 847 km² set aside by the United States in the North Pacific Ocean, 834 334 km² by the United Kingdom around Pitcairn Island and 989 842 km² by Australia in the Coral Sea.
7. The Prime Minister proposes to announce the establishment of the Kermadec Ocean Sanctuary at the UN General Assembly on or about 1 October of this year. The Sanctuary will be established as a category I area under the International Union for Conservation of Nature (IUCN) protected areas classification system. It will be located in the area covered by the existing Kermadec benthic protection area, from the outer boundary of the existing Kermadec Islands marine reserve to the boundary of the EEZ.
8. I propose to report back to the Legislation committee with a Bill to establish the Kermadec Ocean Sanctuary by the end of November, with the aim of having legislation in force by 1 October 2016 to coincide with the start of the fishing year. The purpose of the Bill will be to protect the area covered by the Sanctuary in its natural state. The Bill will set out the location of the Sanctuary, the activities that are prohibited and allowed, and the details of how it will be managed.

Background

9. There is growing international concern about the environmental effects of human activity on the world's oceans, most recently reflected in the UN General Assembly Resolution on Oceans and the Law of the Sea in 2014. Concerns including over-fishing, pollution, biodiversity loss and climate change. Capture fisheries are near the ocean's productive capacity at around 80 million tonnes per year and a quarter of assessed fish stocks are over-fished. The United Nations Environment Programme estimates there is 46 000 pieces of floating plastic per square mile of ocean. One million seabirds and 100 000 marine mammals are killed by such debris each year. Ocean acidification has increased 30% since the industrial revolution affecting the formation of shells in some marine species.
10. New Zealand was one of the first countries to provide for protected areas in the marine environment in 1971 when the Holyoake National government passed the Marine Reserves Act. No provision was made for areas in the EEZ as New Zealand did not establish its EEZ until 1978. We have sovereign rights in the territorial sea, with very few limitations. In the Exclusive Economic Zone (EEZ), we have sovereign rights to exploit natural resources of the zone, and jurisdiction over the installation of structures, marine scientific research and the protection and preservation of the marine environment. We must exercise those rights with due regard to the rights of other States such as the rights of navigation and laying of submarine cables and pipelines.
11. The principle of setting aside areas and conserving them in their natural state is well established in the terrestrial environment. The Tongariro National Park was the fourth national park in the world when established under Richard Seddon's Liberal Government in 1894, after the gifting of the mountain tops by Ngāti

Tuwharetoa. Thirty-three per cent of New Zealand's land area is now protected, including our largest national park in Fiordland (12,500 km²) created by Sidney Holland's National government in 1952.

12. Forty four fully protected marine reserves have been established in the territorial sea, covering an area of 17,700 km² or 9.7% of New Zealand's 182,000 km² territorial sea. However, this amounts to just 0.4% of the 4,050,000 km² of ocean now in our jurisdiction.
13. The Kermadec region (located to the north of New Zealand, half way between the Bay of Plenty and Tonga, see Appendix 1) has been identified as a highly significant marine environment for both New Zealand and the world.

History of the Kermadec Islands

14. New Zealanders have a close association with the Kermadec Islands, despite their isolation. Raoul Island was intermittently settled by early Polynesians between 600 and 1000 years ago. Evidence remains of ancient settlements, and there are a number of plants and animals there that were probably introduced by these voyagers from the Pacific.
15. The Kermadecs are Rangitahua (the stopping off place) to Ngati Kuri and Te Aupouri, as the Kurahaupo and Aotea canoes visited the islands in the 14th century because Kurahaupo needed repairs. Ngati Kuri and Te Aupouri retain a relationship with the islands to this day.
16. Europeans discovered the islands in the 1700s and used them to supply wood and water to the whaling ships that hunted sperm and right whales along the line of the Kermadec trench. There were a number of attempts at settlement of Raoul Island from 1836 onwards, with families growing food for themselves and to supply passing ships. Settlers endured massive storms, earthquakes and volcanic eruptions.
17. A tragic chapter in 19th century Kermadec history occurred in 1863. The Portuguese slave ship *Rosa y Carmen*, under Spanish captain Marutani, had been on a blackbirding voyage through Easter Island, the Cook Islands, Tokelau, Niue and Samoa. It had taken 349 Polynesian captives who would later be sold to Peruvian plantations. The ship stopped at Raoul Island and looted it for provisions. Over 120 slaves died on the island due to appalling treatment, disease and starvation. This is an episode of historic significance for New Zealand, as it was our only connection to the global slave trade of the 18th and 19th centuries.
18. The longest lasting settlers were the Bell family who arrived in 1878, and were still there when the British (at the behest of the New Zealand government) annexed the islands, making them part of the New Zealand colony in 1887.
19. Raoul Island was used as a coast watch station during WWII, and exported pohutukawa "ships' knees" (wooden angle brackets) as part of the war effort. The islands were later considered for British nuclear weapons testing – the New Zealand government gave a firm 'no'. A seismograph station on Raoul Island now functions as part of the monitoring network for the Comprehensive Nuclear Test Ban Treaty, and is also part of the global seismograph network.

Natural Heritage

20. Settlement of the islands resulted in the introduction of numerous animal and plant pests. All of the islands are now a nature reserve requiring a high level of management and protection. Feral goats, cats and rats have all been eradicated, as have some plant pests. Work continues on managing and eradicating plant pests by the Department of Conservation and volunteers.
21. Because of its isolation, the Kermadec region has been subject to a very low level of disturbance and human impact. It is one of the most pristine and unique places on earth. Its importance has already been recognised by the New Zealand government, which in 2007 submitted the Kermadec islands and marine reserve to UNESCO for consideration as a world heritage site.
22. The Kermadec region also contains an extraordinarily wide range of habitats. It is home to many species found nowhere else, and is an important migrating route for far ranging species. For example:
 - up to 35 species of dolphin and whale migrate through the Kermadec region
 - thirty nine of an approximate total of 350 species of seabirds worldwide are found in the Kermadec region
 - up to six million seabirds breed on the Kermadec islands each year
 - three of the world's seven sea turtles are found in the Kermadecs, all of which are endangered or critically endangered
 - thirty two per cent of all the fish species known in New Zealand are from the Kermadec region, and more than 50 per cent of those are from the deep sea.
23. Currently the Kermadec region is partly protected through:
 - a. the Kermadec Islands marine reserve (established in 1990), which stretches from the coastline to 12 nautical miles around Raoul, MacCauley and Curtis Islands and L'Esperance Rock, and covers a total area of 7,480 km²
 - b. the Kermadec benthic protection area (established in 2007), which protects the EEZ surrounding the Kermadec islands from the effects of bottom impacting fishing methods (trawling and dredging).
24. Given its uniqueness and environmental importance to New Zealand and the world, I consider that providing greater protection for the Kermadec region is a key priority.

Proposal

25. I propose to establish a new 620 000 km² Kermadec Ocean Sanctuary (the Sanctuary). The Sanctuary will be located in the area covered by the existing Kermadec benthic protection area, from the outer boundary of the existing Kermadec Islands marine reserve to the boundary of the EEZ. It will cover 15% of our EEZ, an area twice the size of our land mass and 50 times the size of our largest national park in Fiordland.

26. Providing greater protection for the Kermadec region would help to ensure that we are able to protect and sustainably manage the Kermadec marine environment now and in the future.
27. Other nations have already recognised the importance of large, fully protected marine reserves in the Pacific region. Examples include (see Appendix 2):
 - a. the 1,058,847 km² Pacific Remote Islands National Marine Monument established by the United States in 2014
 - b. the intention to create a 834,334 km² Pitcairn Islands Marine Reserve announced by the United Kingdom in 2015, and
 - c. the 989,842 km² Coral Sea Marine Reserve announced by Australia in 2012. Around 51 per cent of the Reserve will be zoned as a Marine National Park, which is a no-take zone. The remaining zoned areas will be protected to different levels.
28. A Kermadec Ocean Sanctuary will contribute to this emerging Pacific network of marine reserves. It will also represent a significant step towards meeting New Zealand's international obligations and commitments in relation to marine protection. In particular:
 - As a Party to the United Nations Convention on the Law of the Sea (UNCLOS), New Zealand has a legal duty to protect and preserve the marine environment (Article 192). Sovereign rights to exploit natural resources must be exercised in accordance with this duty.
 - As a Party to the Convention on Biological Diversity (CBD), New Zealand has a range of legal obligations in relation to the development and establishment of protected areas for the conservation and sustainable use of biological diversity. New Zealand is subscribed to the CBD's "Aichi Target 11", which sets out the goal that "*by 2020 [...] 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures*".
29. The Prime Minister proposes to announce the establishment of the Kermadec Ocean Sanctuary at the UN General Assembly on or about 1 October of this year.

IUCN Classification of marine protected areas

30. The International Union for Conservation of Nature (IUCN) has a system for classifying protected areas according to their management objectives. There are six categories:
 - I – strict nature reserve/wilderness area
 - II – national park
 - III – national monument or feature
 - IV – habitat/species management area
 - V – protected landscape/seascape

VI – protected area with sustainable use of natural resources

31. I propose to establish the Kermadec Ocean Sanctuary as a category I area. Impacts of human activities and access will be strictly managed to protect the long-term ecological integrity of the area.
32. There is no international process for confirming the category. It is the responsibility of the government to determine the category most suited to an area, and the management regime that will meet the objectives of the category.

Kermadec Ocean Sanctuary legislation

33. I propose to report back to the Legislation committee with a Bill to establish the Kermadec Ocean Sanctuary by the end of November, with the aim of having legislation in force by 1 October 2016 to coincide with the start of the fishing year.
34. The purpose of the Bill will be to protect the area covered by the Sanctuary in its natural state. The Bill will set out the location of the Sanctuary, the activities that are prohibited and allowed, and the details of how it will be managed.

Management regime

35. It is important to note that the international rules governing coastal States' rights to manage activities in the exclusive economic zone (EEZ) differ from the rights relevant to the territorial sea. A coastal State has sovereignty in the territorial sea, with very few limitations (one of the few being the right of innocent passage).
36. In the EEZ, the coastal State has sovereign rights to exploit natural resources of the zone, and jurisdiction with respect to the installation of structures, marine scientific research and the protection and preservation of the marine environment, but it must exercise those rights with due regard to the rights of other States. The most important of those are the rights of navigation and overflight and of the laying of submarine cables and pipelines.
37. The regulation of shipping (and related matters such as dumping and discharge of waste) is governed by the international rules established by the International Maritime Organisation.
38. Human access, use and impacts will be strictly controlled and limited in the Sanctuary to ensure its protection. The following activities will be prohibited in the Sanctuary:
 - a. commercial fishing and aquaculture
 - b. recreational fishing
 - c. fishing-related tourism
 - d. oil, gas and seabed mining prospecting, exploration and mining
 - e. discharge activities from ships that do not comply with the Marine Protection Rules (see Appendix 3).
39. The following activities will be allowed in the Sanctuary in accordance with our international obligations:

- a. navigation and overflight
 - b. marine scientific research
 - c. laying of submarine cables and pipelines
 - d. discharge activities from ships that comply with the Marine Protection Rules.
40. Where marine scientific research will involve the taking of marine life or disturbing the seabed, the activity will need to be approved by the Environmental Protection Authority (EPA) and may be subject to conditions. I am seeking authority to finalise the details of how this will be done.
41. Other activities that will be allowed are:
- a. public access, tourism and recreation activities such as boating or diving
 - b. seismic surveying activities conducted for scientific purposes, subject to meeting the requirements of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013.
42. As far as possible, management of the activities (including enforcement) will continue to be done by the agency currently responsible. For example, Maritime New Zealand will continue to be responsible for managing discharges and the EPA will remain responsible for managing activities permitted under the Permitted Activities Regulations (including marine scientific research).
43. The Kermadec Ocean Sanctuary legislation will be administered by the Department of Conservation.

Economic interests

44. Some existing activities will be adversely affected by the establishment of a Kermadec Ocean Sanctuary. However, I consider that these are likely to be limited, given the region's isolation and the existing technological barriers for undertaking some activities. In addition, resources that could be of interest in the future are also in areas of significant biodiversity and environmental value.

Fishing

45. The New Zealand EEZ is divided into 10 Fisheries Management Areas (FMAs). The region proposed for the Ocean Sanctuary is referred to as FMA10. Fishers can fish quota for these species anywhere within the EEZ and catch reporting shows that only a small proportion (less than 3% for each species) is taken from FMA10. Given this, I consider that fishing interests will not be significantly impacted by the establishment of an Ocean Sanctuary.
46. Approximately 20 tonnes of commercial catch with an export value of \$165,000 is taken from FMA 10 each year (Table 1). Swordfish and Bigeye tuna are the only two species that are targeted. Several more species, primarily other tuna and shark species, are taken as bycatch.

Table 1: Average annual commercial catch taken from FMA 10 (2010-15)

Species	QMS or Non-QMS	Annual catch from FMA10 (tonne)	FMA10 catch as a percentage of EEZ catch	FMA10 export value (NZ\$)
Swordfish	QMS	11.1 t	1.3%	██████████
Blue shark	QMS	2.8 t	0.4%	██████████
Bigeye tuna	QMS	2.3 t	1.6%	██████████
Moonfish	QMS	1.2 t	1.3%	██████████
Albacore tuna	Non-QMS	0.7 t	0.0%	██████████
Other	Both	2.0 t	0.01%	██████████
TOTAL		20.1 t	0.1%	\$164,672

47. All of the species caught are referred to as Highly Migratory Species (HMS) meaning that they are not permanently resident in the region, moving between the High Seas and other parts of the EEZ. For this reason, quota for these species managed under the Quota Management System (QMS) applies over the entire EEZ and is not specific to FMA10. Only a small amount of non-QMS catch (less than two tonnes annually) is taken from the region. The 20.1 tonne FMA10 average annual commercial catch and value of \$164 672 compares to the average NZ catch of 449,000 tonnes and value of \$1.53 billion (ie 0.004 % by tonnage and 0.011% by value compared with the national average). This reinforces that although the area is 15% of New Zealand's EEZ, there is currently very little viable commercial fishing.
48. Six companies have taken catch in the region over the past 5 years. Of these, one is in liquidation, one no longer has a fishing permit and one holds no quota and is currently being investigated for unpaid penalties. For those companies still active in the region, catch from FMA10 makes up less than 4% of their total EEZ catch.
49. When the QMS was established, nominal quota was established in FMA10 to cover the eventuality that commercially viable fisheries were found to be present in the region. This quota has not been allocated to fishers or iwi and is held predominantly by the Crown with a portion held by TOKM under the Fisheries Settlement.¹ It has never been fished and there is no expectation that it will be in future as all inshore species are resident in the regions network of no-take marine reserves and all bottom impacting fishing methods targeting deep water species are banned under the Benthic Protection Area regulations.

¹ Aotearoa Fisheries Limited holds 465,000 quota shares in Cray 10. This equates to approximately 0.4 kg of catch and is so small that they receive a zero allocation due to rounding.

50. The quota held by the Crown and TOKM in FMA10 is essentially an administrative quirk. However, as Treaty partners, TOKM will expect to be informed of the likely implications of this proposal before a public announcement.
51. I propose that no compensation is paid to Highly Migratory Species quota owners on creation of the Sanctuary because it is a measure taken for sustainability purposes. This approach is consistent with the Marine Reserves Act 1971, has similar effect to the Fisheries Act 1996² and is consistent with the proposed approach in the proposed MPA Act for establishing marine reserves, species-specific sanctuaries and seabed reserves. I also note that those fishers currently operating in FMA10 target EEZ-wide HMS stocks that can be taken effectively in other areas.
52. I also propose that no compensation is paid to those holding 'nominal' quota in FMA10 as these have no value. For clarity, I propose that the Bill states explicitly that no compensation will be payable.
53. There are two options for dealing with the existing FMA10 specific 'nominal' quota – either legislate to remove it or allow existing quota owners (the Crown and TOKM) to retain it. Options would need to be carefully considered with TOKM to ensure there is no perceived or actual undermining of the Fisheries Settlement and to ensure that no additional administrative anomalies are inadvertently created. If the decision is made to retain quota ownership, no cost recovery levies will apply.
54. As the Kermadec islands are not inhabited there is no customary fishing in FMA10.
55. Recreational fishing is minimal and is limited to private vessels transiting the area. Anecdotal information suggests that trolling by yachts sailing between New Zealand and the Pacific does take place although there is no information available on the amount of recreational effort or catch in FMA10. Based on information provided by Customs, it is estimated that approximately 700 yachts pass through the region from the Pacific each year.
56. To ensure consistency with the biodiversity goals of the sanctuary and with proposed bans on commercial fishing, I recommend that recreational fishing not be allowed.

Minerals

57. The creation of the ocean sanctuary by special legislation would preclude all mining or prospecting activities within that area.
58. Nautilus Minerals NZ Limited initially applied for a prospecting permit under the Crown Minerals Act (CMA) in 2007 (see Appendix 4). The target is metallic minerals, primarily high grades of copper, gold and silver. MBIE formally accepted the 'complete' application in 2013, and is in the process of evaluating whether a prospecting permit can be awarded under the CMA.

² Under section 308 of the Fisheries Act, the Crown is explicitly not liable to compensate quota owners for measures taken to ensure sustainability of fish stocks and to address the adverse effects of fishing on the aquatic environment.

59. The establishment of the sanctuary would effectively limit the area for which a prospecting or mining permit may be awarded. If Nautilus wishes to proceed with their permit application, their area would be reduced to approximately 44% of their current request - limited to the application area south of the proposed Sanctuary.
60. Note that officials routinely work with applicants to refine their permit application areas in order to avoid sites of sensitivity. As a permit is yet to be awarded, officials can continue to work with Nautilus to revise the area of the permit once the Sanctuary announcement has been made.
61. Officials consider that the remaining application area outside the Sanctuary is prospective and offers an attractive investment opportunity. In more recent discussions Nautilus has also indicated interest in additional acreage in the southern part of the current reservation (outside the proposed Sanctuary).
62. Currently there is no reliable estimate of the distribution or potential value of seafloor massive sulphides (SMS) across the Kermadec volcanic arc.
63. Nautilus Minerals Ltd is listed on the Toronto Stock Exchange. Their work is focused on copper and gold rich seafloor massive sulphide discoveries in the Southwest Pacific, including Papua New Guinea, Tonga, Solomon Islands, Fiji, Vanuatu and the Clarion Clipperton Zone (CCZ) in international waters in the Central Pacific totalling approximately 370,000 square kilometres. The company does not and has not had any staff based in New Zealand.
64. Crown Minerals officials are currently seeking further minor information to confirm financial records and proposed amendments to their work programme. As no application has yet been approved, the Government would not face any formal cost as a consequence of limiting the application to the southern area.
65. The Mineral Reservation has been in place since 2010 covering the most prospective areas on the Kermadec volcanic arc. The reservation is in effect a moratorium preventing new applications, but does not affect consideration of any existing permits. The Nautilus permit application predates the imposition of that reservation. The reservation has been extended several times and is due to expire on 4 July 2017. The passing of special legislation would make the coverage of the reservation in FMA10 redundant.

Cultural interests

66. Ngati Kuri and Te Aupouri (far-North iwi) claim an association with the Kermadec Islands as tangata whenua, based on a period of habitation while travelling to New Zealand. This association has been recognised by the Crown in deeds of settlement signed in 2014.
67. The Te Hiku Claims Settlement Bill (not yet passed) will codify these settlements. It provides for Statutory Acknowledgments of Ngati Kuri and Te Aupouri's association with the Kermadec Islands. These recognitions will not prevent a Kermadec marine reserve from being established, nor do they impose a formal statutory consultation process for Kermadec-related proposals. However, Ngati Kuri and Te Aupouri will expect to be consulted on major proposals affecting the area. I intend to discuss the proposal with Ngati Kuri and Te Aupouri immediately before it is announced.

68. Ngāti Kuri has previously expressed support for a similar proposal put forward by Pew Charitable Trust.

Consultation

69. The Department of Conservation, Ministry for Business and Innovation, Ministry for Primary Industries, Ministry of Foreign Affairs and Trade and the Treasury have been consulted on the proposal. The Department of Prime Minister and Cabinet has been informed.

Financial implications

70. All financial impacts of establishing the Kermadec Ocean Sanctuary will be managed within existing baselines. I expect that future management of the area will also be managed within existing baselines.
71. There will be an impact on fisheries, but this will be very small due to the existing protections in the area and the fact that most of the fishing that does occur can take place elsewhere in the EEZ.
72. There may be some opportunity costs relating to preventing access to mineral resources in the area. It is impossible to predict the scale of these costs due to lack of knowledge about the resources and uncertainty about when the technology to extract the minerals would be available. However, it is unlikely that there would be much economic activity in New Zealand from any exploitation of these more northern resources and the most likely benefit would be royalties. Deep sea mining is very speculative and it is likely to be many years away from being economically viable, if ever, in such a remote area.

Human rights

73. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative implications

74. Legislation would be required to implement this decision. Note the Bill is not currently on the 2015 legislative programme.

Regulatory impact analysis requirements

75. The regulatory impact analysis (RIA) requirements apply to this paper but a RIS has not been provided. On that basis, Cabinet's requirements and the quality assurance criteria for regulatory proposals have not been met. However, officials consider the paper adequately considers the impacts of the proposal on existing users.

Publicity

76. The establishment of the Kermadec Ocean Sanctuary will be announced by the Prime Minister at the United Nations General Assembly on or about 1 October 2015.

77. Immediately preceding the Prime Minister's announcement contact will be made with Ngati Kuri, Te Aupouri, Nautilus and Te Ohu Kai Moana and the Pew Institute to inform them of the announcement. I will also issue a press release to the domestic media after the Prime Minister's announcement in New York.

Recommendations

78. The Minister for the Environment recommends that the Committee:

1. agree that an Ocean Sanctuary be established in the exclusive economic zone surrounding the Kermadec Islands adjoining the existing Kermadec Marine Reserve
2. agree that the purpose of the Bill will be protecting the Kermadec Ocean Sanctuary in its natural state
3. note this is the same area currently covered by the Kermadec benthic protection area established under the Fisheries Act 1996
4. agree that the following activities will be prohibited in the Kermadec Ocean Sanctuary
 - 4.1. commercial fishing and aquaculture
 - 4.2. recreational fishing
 - 4.3. fishing-related tourism
 - 4.4. oil, gas and seabed mining prospecting, exploration and mining
 - 4.5. discharge and dumping activities from ships that do not comply with the Marine Protection Rules.
5. agree that the following activities will be allowed in the Kermadec Ocean Sanctuary
 - 5.1. navigation and overflight
 - 5.2. marine scientific research
 - 5.3. laying of submarine cables and pipelines
 - 5.4. discharge and dumping activities from ships that are allowed under the Marine Protection Rules
 - 5.5. public access, tourism and recreation activities such as boating or diving
 - 5.6. seismic surveying activities conducted for scientific purposes, subject to meeting the requirements of the Exclusive Economic Zone and Continental Shelf (Environmental Effects – Permitted Activities) Regulations 2013
6. agree that where marine scientific research will involve taking marine life or disturbing the seabed, the activity will need to be approved by the Environmental Protection Authority and may be subject to conditions
7. authorise the Minister for the Environment to make minor and technical policy decisions consistent with the directions of this paper for inclusion in drafting instructions

8. agree that the Prime Minister announce the establishment of the Kermadec ocean sanctuary at the UN General Assembly on or about 1 October 2015
9. note that no Regulatory Impact Statement has been prepared for this proposal, but officials consider the paper adequately considers the impacts of the proposal on existing users
10. invite the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to implement the proposals set out above
11. authorise the Minister for the Environment to further clarify and develop policy relating to the proposals above in a way consistent with the decisions and New Zealand's international obligations
12. invite the Minister for the Environment to bring a draft bill to the Cabinet Legislation Committee by the end of November 2015
13. note that the Bill is not currently on the 2015 Legislation Programme
14. agree to the proactive release of this Cabinet paper, subject to appropriate disclosures.

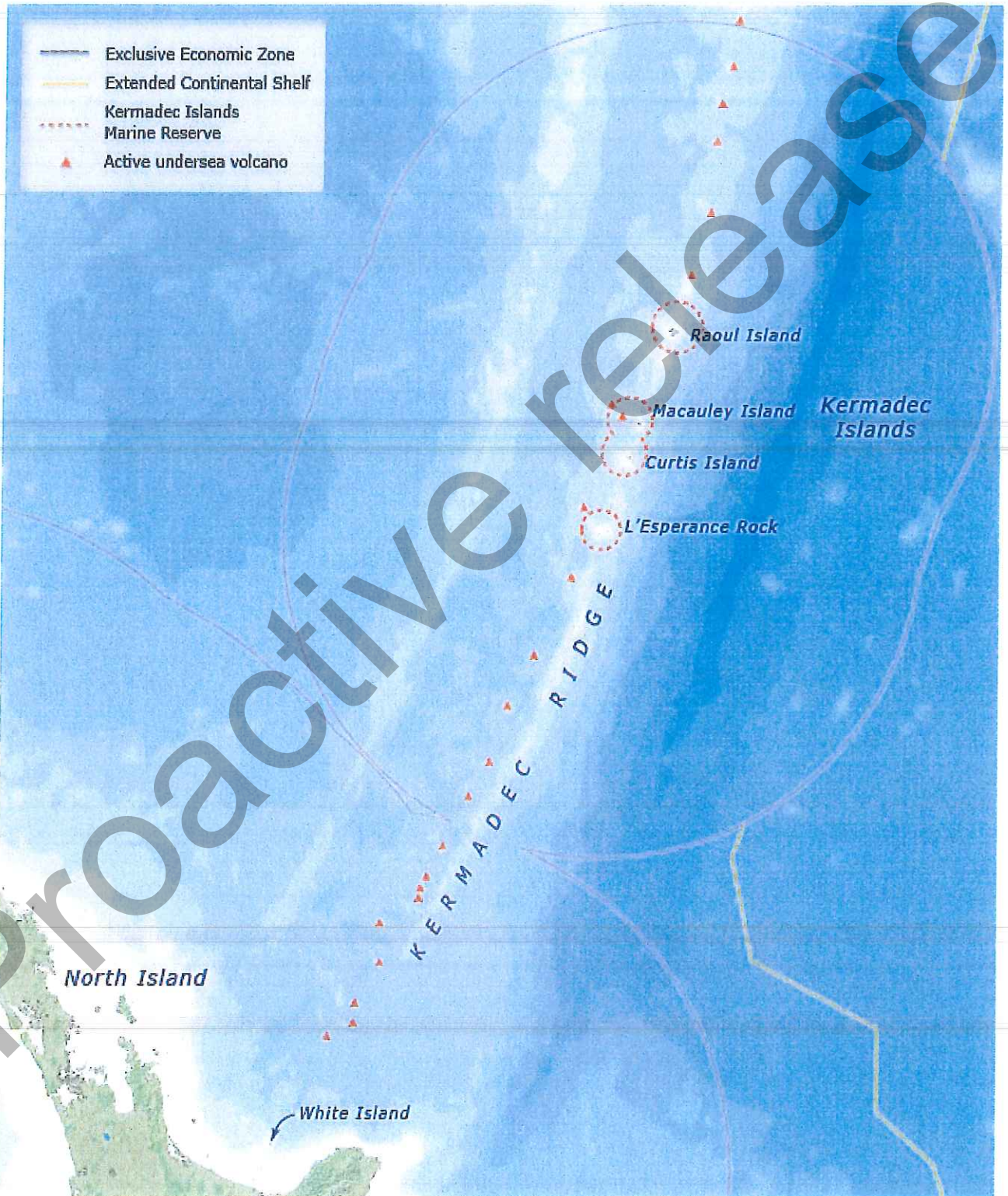


Hon Dr Nick Smith
Minister for the Environment

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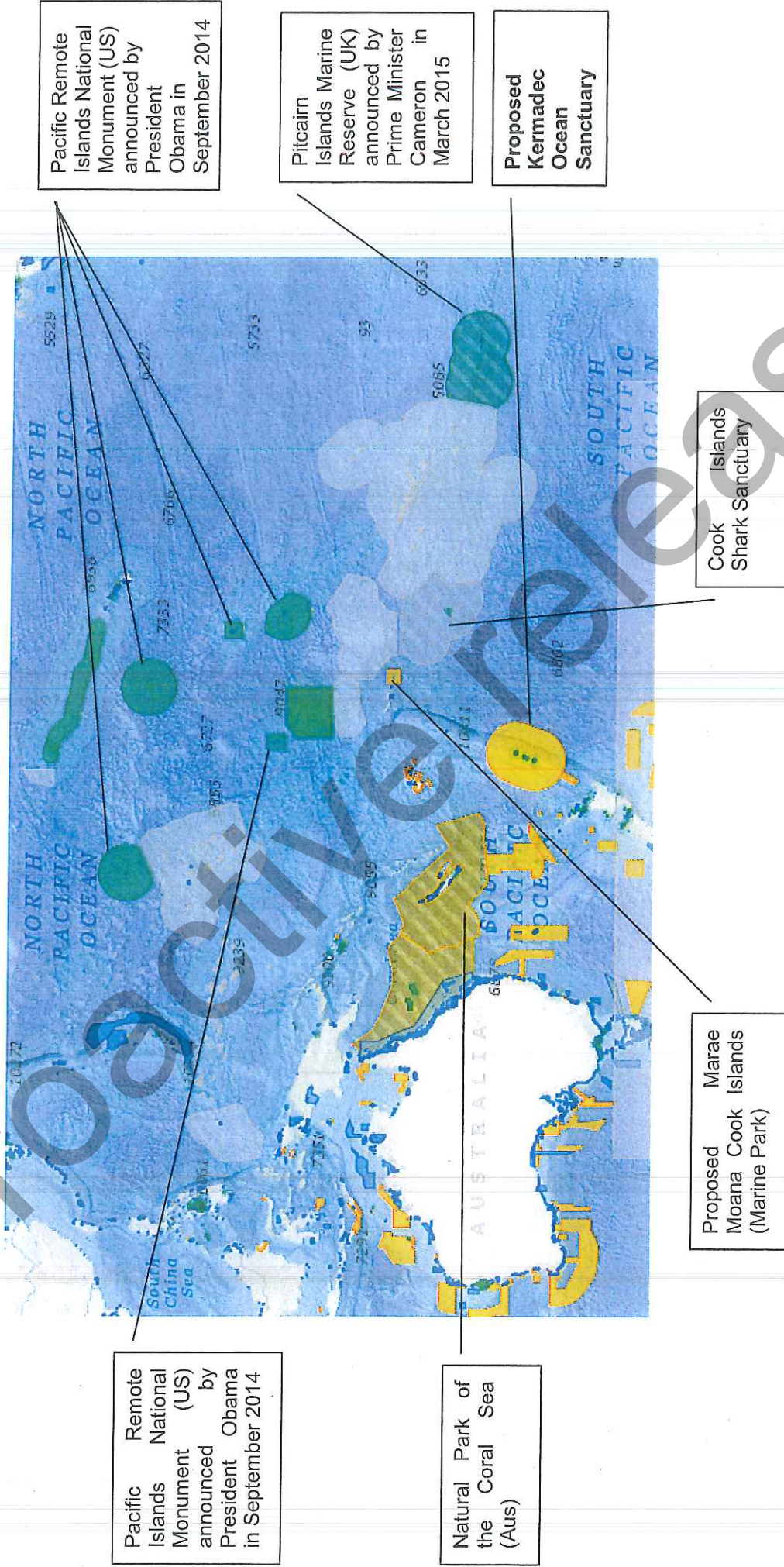
Appendix 1.

The Kermadec region and islands



Appendix 2.

Map of US and UK Pacific marine protected areas



Appendix 3.

Discharges that will be permitted and prohibited in the Kermadec Ocean Sanctuary

Activity	Restrictions	Comment
Discharges	<p>Discharges permitted in line with the existing Marine Protection Rules, e.g.:</p> <ul style="list-style-type: none"> • oil or oily mixtures when en route at concentrations of no greater than 15ppm. Plus, subject to conditions, oil tankers may discharge up to 30 litres per nautical mile beyond 50 nautical miles from land • discharges of noxious liquid substances at limited concentrations and operational conditions (note the regulations are very detailed. Generally very small quantities are allowed to be discharged after suitable washing and discharge requirements have been met) • sewage (most foreign flagged vessels will have treatment systems in line with Annex IV MARPOL) • grey water • garbage in certain situations (comminuted (ground up) food can be discharged, all wash water if not harmful. All other garbage must be retained and discharged ashore) <p>All other discharges prohibited as per the Marine Protection Rules.</p>	<p>Consistent with international obligations</p> <p>Could apply to the International Maritime Organisation for Particularly Sensitive Sea Area status, which would allow imposition of stricter restrictions</p> <p>Note NZ is not a party to Annex IV of MARPOL, so NZ vessels are not required to have treatment systems</p>
Ballast water	<p>Once the Ballast Water Management Convention comes into effect, a treatment system that meets certain standards will be required for all ships flagged to countries that are party to the Convention. Discharges will be allowed whenever necessary if the ship has a compliant system</p>	<p>Consistent with international obligations</p>

Appendix 4.

Map of mineral reservation area and existing mineral permit applications

