

## **Submission from Straterra**

### **To the Department of Conservation**

# **Protecting Hector's and Maui Dolphin**

**19 August 2019**

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## **Introduction**

Straterra is the industry association representing the New Zealand minerals and mining sector. Its membership is comprised of mining companies, explorers, researchers, service providers, and support companies.

We welcome the opportunity to submit on the updated Threat Management Plan to protect Hector's and Maui Dolphin as set out in the document [Protecting Hector's and Māui Dolphins](#) (the document).

The document assesses the various threats to these dolphin species and proposes options for managing the threats. At issue for the New Zealand minerals sector and Straterra are the proposals around seismic surveying and seabed mining.

Straterra strongly supports the objective of reducing the threats to these dolphin species. However, the proposals in this document around seismic surveying and seabed mining, including the extension of the sanctuaries, are not supported by the science and evidence provided and would do little to meet this objective. The proposals would prevent New Zealand from benefiting from the mineral wealth lying beneath these waters.

There is significant economic potential in the vanadium rich iron sand resource on the seabed of the West Coast of the North Island. Significant investment has been attracted to New Zealand to assess this potential and more could follow. In addition, there is potential for a variety of high-tech mineral deposits to be found in the coastal areas which are the focus of the document. Minerals have a vital role to play in the transition to a low carbon economy and it would be wrong to close down options to recover these minerals in the absence of sound, evidence-based reasons.

Straterra takes an industry-wide perspective. We are not specifically representing the interests of the existing permit holders in the area but are concerned that opportunities for all investment activities (existing and new) are not unnecessarily curtailed.

## Summary

- No evidence is provided that seismic surveying and seabed mining have a detrimental impact on Hector's and Maui Dolphin. Restrictions are being proposed as a precautionary approach.
- Seabed mining and seismic surveying applications are best assessed on a case-by-case basis where an objective assessment of the merits of the application are made rather than subject to an outright ban. The existing legislation provides for this.
- Because of the realities of commercial mining, the area of seabed likely to ever be mined is very small. Economic mineral resources are rare, hard to find, and very localised. Mining only happens where the minerals are present and economically recoverable while meeting the consent conditions imposed under applicable legislation. Currently there are only two exploration permits in place. If seabed mining were to occur in these areas, or elsewhere, the mining footprint is likely to be infinitesimal compared with the area being protected or that proposed.
- Sanctuaries should only be created if there is a particular conservation or visual value that needs to be protected not as a vehicle to achieve other environmental objectives. Extending the sanctuaries to such large areas of coastline as proposed goes beyond their intended purpose.

## Submission

### Environmental Safeguards

Straterra supports seismic surveying and seabed mining activities acknowledging there needs to be measures in place to minimise threats to the Hector's and Maui dolphin, as well as environmental impacts generally. However, safeguards are already in place under the Resource Management Act (RMA) and Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act (EEZA) and tightening regulations in the areas of seismic surveying and seabed mining, as proposed, are not necessary to manage these threats.

Under existing law, seabed mining activities cannot occur until consents, with conditions imposed as deemed appropriate by an independent body, are granted. New Zealand's environmental protection legislation is among the most stringent in the world. The Resource Management Act provides for a considered, case-by-case assessment of the social, environmental and economic impacts of a seabed mining proposal with the Environment Court as the ultimate arbiter. It provides an independent and robust process and integral to that process is the need to consult so all voices are heard.

The standards set through these processes reflect society's knowledge and standards of the day. These will change over time and that is appropriate. Such ability to adapt and change as we learn more, both in terms of how to manage operations and in the assessment of the impact of our activities is far preferable to the set of proposals in the document which would close down

opportunities to benefit from potentially high value minerals with little or no proven benefit to the protection of Hector's and Maui dolphins.

It seems to us that the proposals start from a predetermined view that seismic surveying and seabed mining should be banned without the evidence to support that conclusion. In the absence of robust evidence it is not appropriate to apply such a predisposition in this or any other issue.

The proposal to ban seismic surveying and seabed mining in the name of protecting the dolphins suggests the instigators have little confidence in the Resource Management Act – New Zealand's most important environmental legislation. If the proposal were to proceed it would set a dangerous precedent to the survival of that groundbreaking legislation.

We also note that the document laments the limited powers for the government to exercise discretion "where greater protection may be appropriate" (page 32). However, we remain adamant that decision-making needs to be evidence and fact based and not open to subjective, political discretion particularly in this issue where dolphins can attract emotional responses with voters. There have been recent examples in other branches of government where Ministerial discretion has enabled sub-optimal decisions due to an anti-mining predisposition held, by decision makers.

## **Small Footprint**

It is important to put some perspective around this issue. Because of the realities of commercial mining, the area of seabed likely to ever be mined is very small. Economic mineral resources are rare, hard to find, and very localised. Mining only happens where the minerals are present and economically recoverable while meeting the consent conditions imposed.

## **Science and evidence**

Straterra submits that measures for managing the threats to the Hector's and Maui dolphin must be based on science and evidence. No evidence is given of the supposed impacts seismic surveying and seabed mining have on the dolphin population. What is more, there is nothing to suggest that any of the proposed measures are likely to affect it either.

On page 32 of the document it says "seismic surveying and seabed mining are *considered* to pose the greatest risk to these dolphins (seismic surveying because of the very loud underwater noise produced by the airgun arrays; and seabed mining through a combination of underwater noise, direct seabed disturbance, and the discharge of sediments.)" But no robust evidence has been provided in the document, nor the [Supporting Information and Rationale](#) document, to back this up or justify a tightening of the regulations. On the contrary, when considering the Trans-Tasman Resources application Environmental Protection Authority found that impacts on marine mammals, including Maui / Hector's dolphins, can be appropriately managed, so as to avoid any threat to the mammals.

Throughout both documents, the language is inconclusive about what impacts seismic surveying and seabed mining might have on the dolphins in the areas under question. It is full of vague statements along the lines of that these activities have *the potential* to make the area *sub-optimal* and in *extreme cases* lead to *partial* or full displacement.

On page 87 of the [Supporting Information and Rationale](#) document, it states that “apart from theoretical or modelled assessments, no studies have been undertaken to assess the effects of seismic surveying on Hector’s or Māui dolphins directly”. On page 91, about seabed mining, “apart from theoretical or modelled assessments for individual consent applications (for example, noise production and attenuation), no studies have been undertaken to assess the effects of seabed mining on Hector’s or Māui dolphins”.

Other than anecdotal evidence or desktop models, much of the in-the-field scientific studies have been of other marine mammals in other parts of the world. Even here though, there is little evidence that it has a detrimental impact on those mammals. Not only are the effects of mineral activity temporary but marine mammals have sufficient range and ability to avoid any disturbance or effect of mining.

It seems that restrictions to both seismic surveying and seabed mining are being proposed as a precautionary approach - just in case they have a detrimental impact. This is particularly the case with seabed mining.

All of this reinforces our view that seabed mining and seismic surveying applications are best assessed on a case-by-case basis where an objective assessment of the merits of the application are made rather than subject to an outright ban.

Seabed mining activities can be carried out in ways that are compatible with measures to manage threats to the Hector’s and Maui dolphin. The marine consent granted by the Environmental Protection Authority in August 2017 to Trans-Tasman Resources to mine ironsands in the South Taranaki Basin, found that impacts on marine mammals, including Maui / Hector’s dolphins, can be managed.

As well as the lack of evidence in the documents, we have to say some of the claims and portrayals in the documents are misleading – perhaps designed to win public favour. For example, the map of Maui dolphin sightings on page 101 of [Supporting Information and Rationale](#) includes dolphin sightings from Wellington decades ago. With one sighting per dot the extent of the dolphin’s presence across the coast is pictorially exaggerated.

## Assessment of Proposals

An extension of the existing marine mammal sanctuaries is proposed and a number of additional options are presented in the document for both Seismic Surveying and Seabed Mining.

As discussed in this submission we prefer the status quo and argue that the existing environmental regulations, particularly the EEZ Act and the RMA which provides for a considered, case-by-case assessment of the social, environmental and economic impacts of seabed mining proposals. However, we comment here on the proposals put forward.

### ***Marine Mammal Sanctuary Extensions***

In our view, specially protected areas such as sanctuaries should only be created if there is a particular conservation or visual value that needs to be protected. They should not be used as a

vehicle to achieve other environmental objectives. Extending the sanctuaries to such large areas of coastline as proposed goes beyond their intended purpose.

The proposed southward extension of the West Coast North Island Marine Mammal Sanctuary as far as Wellington's south coast is unnecessary.

The current distribution of Māui dolphins is defined between Cape Reinga in the north and Cape Egmont in the south. As the document says, there is no evidence of a resident population south of Cape Egmont, although there is a supposition that they are infrequently present there given the area has been identified as a potential transitional area.

The area has also been suggested as a suitable habitat for them. The document says risk reduction in this southern area may reduce barriers to population connectivity or facilitate recolonisation of previously occupied areas. But no barriers are created from seabed mining because no mining is occurring there. So there are no barriers to be removed.

### ***Seismic Surveying***

Of the three options, we prefer Option 1, which would apply the existing Code of Conduct to the sanctuaries.

We are opposed to Option 3 which would prohibit seismic surveying but with certain exemptions for existing permit holders and urgent hazard assessments. We note that under this option, because of the exemptions, seismic surveying would still occur. Additional seismic surveying for new minerals exploration, would be so infrequent and, due to their sparse population, would not impact on the dolphins any more than the surveying that will occur with the exemptions proposed.

We are opposed to Option 2 which would introduce a new permitting system with the ability to impose conditions. We do not see how this would enhance the status quo and would impose new costs on industry and regulators and increase uncertainty.

### ***Seabed Mining***

We support Option 1, the status quo. As the document says, the effects of seabed mining on Hector's and Māui dolphins would continue to be avoided within the existing prohibited area. Elsewhere, effects on dolphins would continue to be managed through the RMA and EEZ Act consent processes.

Options 2 and 3 which introduce prohibition out to eight and 12 nautical miles respectively are unnecessary and there is nothing in the documents to convince us otherwise.