

Appendix 10


Hauraki Gulf Marine Park Act 2000


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Plan modification annotations

-  indicates where content is affected by proposed plan modification x. refer to plan modification folder or website for details.

-  indicates where the content is part of plan modification x, which is subject to appeal.

- Underlined content to be inserted.

- ~~Struck through~~ content to be deleted.

Hauraki Gulf Marine Park Act 2000

1. The Hauraki Gulf has a quality and diversity of biology and landscape that makes it outstanding within New Zealand. The islands of the Gulf are valued as the habitats of plants and animals, once common, now rare, and are often the only places in the world where these species exist naturally:
2. On some islands natural ecosystems remain intact while other islands have ecosystems that are evolving rapidly or are islands that provide opportunities for habitat restoration. A diverse marine environment extends from the deep ocean to bays, inlets, and harbours off the coastline and the shallow sea and broad intertidal flats of the Firth of Thames:
3. The Gulf has a rich history of human settlement and use. The Gulf is one of the earliest places of human settlement in New Zealand and for generations supported and was home to tangata whenua. While tangata whenua have no single name for the Gulf, the names Tikapa Moana and Te Moananui a Toi are recognised as referring to the Gulf. Auckland, the first seat of government, is also on its shore. Along the shores of the Gulf the changing culture and technologies can be traced through places like the pa, kainga, and garden sites of antiquity on every island, driving dams, copper and gold mines, whaling stations, timber mills, industrial sites, and grand and ordinary homes:
4. The Treaty of Waitangi was signed by tangata whenua of the Hauraki Gulf both at Waitangi and on the shores of the Gulf. The Treaty provides guarantees to both the Crown and tangata whenua and forms a basis for the protection, use, and management of the Gulf, its islands, and catchments. The Treaty continues to underpin the relationship between the Crown and tangata whenua. The assembled tribes of the Hauraki Gulf reaffirmed its importance to them in a statement from a hui at Motutapu Island, 14-15 November 1992 (The Motutapu Accord):
5. The hinterland of the Gulf is intensively developed and settled. Its shores contain New Zealand's largest metropolitan area and extensive tracts of productive farm land. The coastal waters are of great importance to commerce in New Zealand. The Gulf contains the Port of Auckland, many smaller ports, and marinas. The Gulf is lived in and worked in, and is used for marine commerce, commercial fishing, and harbour and gulf transport. The Gulf is economically important:
6. People use the Gulf for recreation and for the sustenance of human health, well-being, and spirit. The natural amenity of the Gulf provides a sense of belonging for many New Zealanders and for them it is an essential touchstone with nature, the natural world, and the marine environment of an island nation:
7. The Gulf, its islands, and catchments have complex interrelationships that need to be well understood and managed. Many improvements have been made in the administration of statutory jurisdictions in the Gulf, the exercise of individual and collective responsibility, and stewardship of the Gulf. But the need for co-operation, and the need for integrated management, recognised in the establishment by local authorities of the Hauraki Gulf Forum, by Auckland City of "Vision Hauraki", by tangata whenua in the Motutapu Accord, and by the Government in establishing in 1967 the Hauraki Gulf Maritime Park, still remains. The Gulf must be managed in a manner that crosses territorial jurisdictions, crosses land and water boundaries, and crosses cultures and that respects both conservation and development needs:

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Hauraki Gulf Marine Park Act 2000.

2 Commencement

This Act comes into force on the date on which this Act receives the Royal assent.

3 Purpose

The purpose of this Act is to—

- a. integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- b. establish the Hauraki Gulf Marine Park:
- c. establish objectives for the management of the Hauraki Gulf, its islands, and catchments:
- d. recognise the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands:
- e. establish the Hauraki Gulf Forum.

4 Interpretation

In this Act, unless the context otherwise requires,—

administering body has the same meaning as in section 2 of the Reserves Act 1977

catchment means any area of land where the surface water drains into the Hauraki Gulf

coastal area means those areas of land (other than islands) that contribute to the distinctive character of the coast, including, but not limited to,—

- a. land providing access to coastal water; or
- b. land containing an uninterrupted ecological sequence of habitats and vegetation; or
- c. land with historic features related to the coast

coastal marine area means the foreshore, seabed, and coastal water, and the air space above the water,—

- a. of which the seaward boundary is the outer limit of the territorial sea:
- b. of which the landward boundary is the line of mean high water springs, except that, where that line crosses a river, the landward boundary at that point is the lesser of—
 - i. 1 kilometre upstream from the mouth of the river; or
 - ii. the point upstream that is calculated by multiplying the width of the river mouth by 5

coastal water means the water within the coastal marine area

conservation area means any land or foreshore that is—

- a. land or foreshore for the time being held under the Conservation Act 1987 for conservation purposes; or
- b. land in respect of which an interest is held under the Conservation Act 1987 for conservation purposes

Conservation Board means a Conservation Board established under section 6L of the Conservation Act 1987

constituent party means any Minister or local authority who has the power under section 16(2) to appoint 1 or more representatives to the Forum; and includes any tangata whenua representatives appointed under section 16(2)(e)

Deed of Recognition means a deed entered into in accordance with section 44

economic activity includes marine commerce

environment includes—

- a. ecosystems and their constituent parts, including people and communities; and
- b. all natural and physical resources; and

- c. amenity values; and
- d. the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by those matters

foreshore means such parts of the bed, shore, or banks of the sea or a river as are covered and uncovered by the flow and ebb of the tide at mean spring tides

Hauraki Gulf or **Gulf** (which is generally referred to by Maori by the names Tikapa Moana and Te Moananui a Toi)—

- a. means the coastal marine area on the east coast of—
 - i. the Auckland Region, as constituted by the Local Government (Auckland Region) Reorganisation Order 1989, Gazette 1989, Vol III, p 2247; and
 - ii. the Waikato Region, as constituted by the Local Government (Waikato Region) Reorganisation Order 1989, Gazette 1989, Vol III, p 2460; and
- b. includes estuaries and the tidal parts of rivers and creeks on the east coast of the Auckland Region and the east coast of the Waikato Region

Hauraki Gulf Forum or **Forum** means the body established under section 16

Hauraki Gulf Marine Park or **Park** means the Park established under section 33

[**local authority** means a local authority within the meaning of the Local Government Act 2002]

Maori land and **Maori customary land** have the same meaning as in Te Ture Whenua Maori Act 1993

marine mammal sanctuary has the same meaning as in the Marine Mammals Protection Act 1978

marine reserve has the same meaning as in the Marine Reserves Act 1971

mataitai reserve means a mataitai reserve declared by notice in the Gazette in accordance with the Fisheries Act 1996 and regulations made under that Act

Minister means the Minister of Conservation

[**regional council** means a regional council within the meaning of the Local Government Act 2002]

regional park means a regional park created under the Local Government Act 1974

reserve has the same meaning as in the Reserves Act 1977 or in any corresponding former Act; and includes any reserve established by any other Act

taiapure-local fishery means a taiapure-local fishery established under Part 9 of the Fisheries Act 1996

[**territorial authority** means a territorial authority within the meaning of the Local Government Act 2002]

wildlife refuge has the same meaning as in the Wildlife Act 1953

wildlife sanctuary has the same meaning as in the Wildlife Act 1953.

5 Act to bind the Crown

This Act binds the Crown.

6 Treaty of Waitangi (Te Tiriti o Waitangi)

1. Subject to subsections (2) and (4), the provisions of Part 3 relating to the Park must be so interpreted and administered as to give effect to the principles of the Te Tiriti o Waitangi (the Treaty of Waitangi).
2. Subsection (1) does not apply in respect of any area of the Park that is foreshore,

seabed, private land, taiapure-local fishery, or mataitai.

3. When carrying out its functions under Part 2, the Forum must have regard to the principles of the Te Tiriti o Waitangi (the Treaty of Waitangi).
4. Nothing in Part 1 or Part 3 or Part 4 limits, affects, or extends the obligations any person has in respect of the principles of the Te Tiriti o Waitangi (the Treaty of Waitangi) under any of the Acts listed in Schedule 1, and those obligations must be fulfilled in accordance with those Acts.

Part 1 Management of Hauraki Gulf

7 Recognition of national significance of Hauraki Gulf

1. The interrelationship between the Hauraki Gulf, its islands, and catchments and the ability of that interrelationship to sustain the life-supporting capacity of the environment of the Hauraki Gulf and its islands are matters of national significance.
2. The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—
 - a. to provide for—
 - i. the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and
 - ii. the social, economic, recreational, and cultural well-being of people and communities:
 - b. to use the resources of the Gulf by the people and communities of the Gulf and New Zealand for economic activities and recreation:
 - c. to maintain the soil, air, water, and ecosystems of the Gulf.

8 Management of Hauraki Gulf

To recognise the national significance of the Hauraki Gulf, its islands, and catchments, the objectives of the management of the Hauraki Gulf, its islands, and catchments are—

- a. the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
- b. the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- c. the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
- d. the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
- e. the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:
- f. the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

9 Relationship of Act with Resource Management Act 1991

1. For the purposes of this section and section 10, the terms district plan, plan, proposed plan, regional plan, regional policy statement, resource consent, and New

Zealand coastal policy statement have the same meaning as in the Resource Management Act 1991, and regional council and [territorial authority have the same meaning as in the Local Government Act 2002].

2. A regional council must ensure that any part of a regional policy statement or a regional plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 of this Act.
3. A territorial authority must ensure that any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 of this Act.
4. A consent authority must, when considering an application for a resource consent for the Hauraki Gulf, its islands, and catchments, have regard to sections 7 and 8 of this Act in addition to the matters contained in the Resource Management Act 1991.
5. The provisions of section 55 of the Resource Management Act 1991 apply as though sections 7 and 8 of this Act were a national policy statement and a regional council or a territorial authority must take action in accordance with that section and notify a change to a regional policy statement, plan, or proposed plan within 5 years of the date of commencement of this Act.

10 Creation of New Zealand coastal policy statement by this Act

1. For the coastal environment of the Hauraki Gulf, sections 7 and 8 of this Act must be treated as a New Zealand coastal policy statement issued under the Resource Management Act 1991.
2. For the coastal environment of the Hauraki Gulf, if there is a conflict between sections 7 and 8 of this Act and the provisions of any New Zealand coastal policy statement issued under the Resource Management Act 1991, the New Zealand coastal policy statement prevails.
3. The provisions of section 55 of the Resource Management Act 1991 apply to the New Zealand coastal policy statement created by this section and a regional council or a territorial authority must take action in accordance with that section and notify a change to a regional policy statement, plan, or proposed plan within 5 years of the date of commencement of this Act.

11 Statements of general policy under Conservation Act 1987 and Acts in Schedule 1 of that Act

1. For the purposes of each of the following Acts for the Hauraki Gulf, sections 7 and 8 have the same effect as a statement of general policy approved under the following specified sections:
 - a. Wildlife Act 1953, section 14C:
 - b. Marine Reserves Act 1971, section 6:
 - c. Reserves Act 1977, section 15A:
 - d. Wild Animal Control Act 1977, section 5:
 - e. Marine Mammals Protection Act 1978, section 3B:
 - f. National Parks Act 1980, section 44:
 - g. Conservation Act 1987, section 17B:
 - h. New Zealand Walkways Act 1990, section 4.
2. Where a statement of general policy is created by this section and the Act to which that statement of general policy applies contains a provision stating that the general policy must not derogate from the provisions of that Act, the requirement in subsection (1) may be implemented for the Hauraki Gulf only to the extent that implementation does not derogate from the provisions of that Act.
3. Where a conservation management strategy or a conservation management plan made under an Act listed in this section derogates from a statement of general

policy created by this section, the requirement that the strategy or plan must not derogate from a statement of general policy does not take effect for any statement of general policy made under this section until the date that the strategy or plan is next amended or reviewed.

12 Amendment to Fisheries Act 1996

Section 11(2)(b) of the Fisheries Act 1996 is amended by adding the expression “; and”, and by adding the following paragraph:

“(c) sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (for the Hauraki Gulf as defined in that Act)—.”

13 Obligation to have particular regard to sections 7 and 8

Except as provided in sections 9 to 12, in order to achieve the purpose of this Act, all persons exercising powers or carrying out functions for the Hauraki Gulf under any Act specified in Schedule 1 must, in addition to any other requirement specified in those Acts for the exercise of that power or the carrying out of that function, have particular regard to the provisions of sections 7 and 8 and of this Act.

14 Preservation of existing rights

1. Nothing in this Act limits or affects any title or right to ownership of the foreshore, seabed, or other land or natural resources of the Hauraki Gulf, its islands, and catchments, whether that title or right to ownership is conferred by Act, common law, or in any other manner.
2. Nothing in this Act limits or affects the ability of any person to bring a claim or to continue any existing claim in any court or tribunal relating to the foreshore, seabed, or other land or natural resources of the Hauraki Gulf, its islands, and catchments arising out of the application of the Treaty of Waitangi, or any Act, or at common law, or in any other manner.
3. Nothing in this section limits or affects any remedy associated with any claim referred to in subsection (2).

Part 2

Hauraki Gulf forum

15 Purposes of Forum

The Forum has the following purposes:

- a. to integrate the management and, where appropriate, to promote the conservation and management in a sustainable manner, of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, for the benefit and enjoyment of the people and communities of the Gulf and New Zealand:
- b. to facilitate communication, co-operation, and co-ordination on matters relating to the statutory functions of the constituent parties in relation to the Hauraki Gulf, its islands, and catchments, and the Forum:
- c. to recognise the historic, traditional, cultural, and spiritual relationship of tangata whenua with the Hauraki Gulf, its islands, and, where appropriate, its catchments.

16 Establishment of Forum

1. A body called the Hauraki Gulf Forum is established.
2. The Forum consists of the following representatives:
 - a. 1 representative appointed by the Minister:
 - b. 1 representative appointed by the Minister of Fisheries:
 - c. 1 representative appointed by the Minister of Maori Affairs:

- d. 1 representative appointed by each of the following local authorities:
 - i. Auckland City Council:
 - ii. Auckland Regional Council:
 - iii. Franklin District Council:
 - iv. Hauraki District Council:
 - v. Manakau City Council:
 - vi. Matamata-Piako District Council:
 - vii. North Shore City Council:
 - viii. Rodney District Council:
 - ix. Thames-Coromandel District Council:
 - x. Waikato District Council:
 - xi. Waikato Regional Council:
 - xii. Waitakere City Council:
- e. 6 representatives of the tangata whenua of the Hauraki Gulf and its islands appointed by the Minister, after consultation with the tangata whenua and the Minister of Maori Affairs:
- f. 2 further representatives appointed by the Auckland Regional Council.
3. The representatives appointed in accordance with subsection (2)(d) or (f), or subsection (5) must be members of the local authority elected in accordance with the [Local Electoral Act 2001].
4. The representatives appointed in accordance with subsection (2)(f) may not vote on any resolution of the Forum.
5. If two-thirds or more of the constituent parties agree, a local authority whose powers and functions may have an effect on the Hauraki Gulf, its islands, and catchments, and whose inclusion in the Forum will further the interests of the Forum and of the Hauraki Gulf may join the Forum as a constituent party and appoint a representative to the Forum.

17 Functions of Forum

1. To promote sections 7 and 8, the Forum has the following functions in relation to the Hauraki Gulf, its islands, and catchments:
 - a. to prepare a list of strategic issues, determine a priority for action on each issue, and regularly review that list:
 - b. to facilitate and encourage co-ordinated financial planning, where possible, by the constituent parties:
 - c. to obtain, share, and monitor information on the state of the natural and physical resources:
 - d. to receive reports on the completion and implementation of deeds of recognition:
 - e. to require and receive reports from constituent parties on the development and implementation of policies and strategies to address the issues identified under paragraph (a):
 - f. to receive reports from the tangata whenua of the Hauraki Gulf on the development and implementation of iwi management or development plans:
 - g. to prepare and publish, once every 3 years, a report on the state of the environment in the Hauraki Gulf, including information on progress towards integrated management and responses to the issues identified in accordance with paragraph (a):
 - h. to promote and advocate the integrated management and, where appropriate, the sustainable management of the Hauraki Gulf, its islands, and

catchments:

- i. to encourage, share, co-ordinate where appropriate, and disseminate educational and promotional material:
 - j. to liaise with, and receive reports from, persons and groups having an interest in the Hauraki Gulf and business and community interests to promote an interest in the purposes of the Forum:
 - k. to commission research into matters relating to the functions of the Forum.
2. When carrying out its functions under subsection (1), the Forum must have particular regard to the historic, traditional, cultural, and spiritual relationship of tangata whenua with the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments.

18 Powers of Forum

1. The Forum has the powers that are reasonably necessary to carry out its functions.
2. The Forum's powers include the powers—
 - a. to consider issues related to its purpose; and
 - b. to receive reports from constituent parties; and
 - c. to make recommendations to constituent parties; and
 - d. to advise any person who requests the Forum's advice; and
 - e. to commission or undertake those activities that are necessary to achieve its purpose.
3. The Forum must not—
 - a. appear before a court or tribunal other than as a witness if called by a party to proceedings; or
 - b. take part in a decision-making process under any enactment other than to advise when requested to do so.

19 Costs of administrative and servicing functions of Forum

1. The administrative and servicing functions of the Forum and the costs of those functions must be agreed from time to time by the Forum.
2. Unless the constituent parties agree otherwise, the costs agreed under subsection (1) must be divided equally among the constituent parties and each constituent party must pay 1 share of the costs.
3. Administrative and servicing costs are not payable by constituent parties who are tangata whenua representatives.

20 Costs of other activities

1. The Forum may undertake an activity under section 18(2)(e) if—
 - a. a majority of the representatives agrees to undertake the activity; and
 - b. one or more of the constituent parties (other than tangata whenua representatives) agree in advance to pay the costs of the activity.
2. If the costs of an activity are not agreed in advance, the Forum must not proceed with the activity.
3. Section 18(3) does not affect the powers of a constituent party to take proceedings and, in particular, does not affect the powers of a constituent party to enforce an agreement made in accordance with subsection (1).
4. This section does not apply to the administrative and servicing functions in section 19.

21 Presentation of report

The Forum must present a copy of each report prepared by it under section 17(1)(g) to the Minister.

[22 Forum to be joint committee

1. Subject to section 28, the Forum is to be treated as a joint committee of the constituent local authorities appointed under clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.
2. Clauses 20, 22, 23, 24, 26, 28, 29, 30(2), and 30(4) to (10) of Schedule 7 of the Local Government Act 2002 apply with any necessary modifications to the Forum.
3. The Forum may appoint such subcommittees as it considers appropriate.]

23 Forum to follow model standing orders

1. Unless three-quarters of the representatives present at a meeting of the Forum agree otherwise, at its meetings the Forum must follow the New Zealand Standard for standing orders (NZS:9202:1992).
2. If the Forum agrees in accordance with subsection (1) to adopt other standing orders, those standing orders must not contravene the provisions of the [Local Government Act 2002], the Local Government Official Information and Meetings Act 1987, or any other Act.

24 Term of representatives

1. Each representative appointed by a constituent party (other than tangata whenua representatives) may serve on the Forum for the period of time determined by the constituent party that appointed the representative.
2. A tangata whenua representative may serve on the Forum for the period of time determined by the Minister at the time of the appointment.

25 Appointment of chairperson

The Forum may from time to time appoint 1 of the representatives to act as chairperson and that chairperson holds office for the period agreed by the Forum at the time of that chairperson's appointment.

26 Powers and obligations of constituent parties

Each constituent party (other than tangata whenua representatives)—

- a. may acquire, hold, and dispose of real or personal property for the use of the Forum; and
- b. may remunerate its representative or representatives for the cost of that person's participation in the Forum; and
- c. must provide to the Forum such information or reports as may be required by the Forum; and
- d. must pay administration and servicing costs in accordance with section 19 if required to do so; and
- e. must pay the costs of any activity that the constituent party has agreed to pay; and
- f. may carry out any other functions or duties specified in this Act.

27 Powers and obligations of Auckland Regional Council

The Auckland Regional Council must—

- a. store the records of the Forum and make those records available when required by the Forum; and

- b. convene the first meeting of the Forum within 3 months of the commencement of this Act.

28 Appointment and functions of administering authority

1. The constituent parties may, from time to time by agreement with the appointee, appoint 1 of their number to be the administering authority for the purposes of this Part for a period of no less than 3 years.
2. If, at the first meeting of the Forum or at the first meeting of the Forum after the term of an appointment of an administering authority has expired, the constituent parties fail to make an appointment, the Minister must appoint 1 of the constituent parties to be the administering authority.
3. A constituent party appointed as the administering authority may be reappointed.
4. The administering authority must—
 - a. administer and service the Forum; and
 - b. ensure as far as practicable that the functions, powers, and duties set out in this Part are carried out.
5. For administrative purposes, the Forum is to be treated as a committee of the administering authority.

29 Payment of tangata whenua

1. The Minister must pay to tangata whenua representatives on the Forum, from any appropriation by Parliament for this purpose,—
 - a. remuneration by way of allowances, travelling allowances, and travelling expenses in accordance with the Fees and Travelling Allowances Act 1951; and
 - b. after agreement between the Minister and tangata whenua representatives, made before any costs are incurred, actual and reasonable communication costs and consultation costs incurred in the course of their work as tangata whenua representatives on the Forum.
2. If there is no agreement between the Minister and tangata whenua representatives under subsection (1)(b), the Minister may make such payment to tangata whenua representatives as the Minister considers appropriate in the circumstances.
3. The provisions of the Fees and Travelling Allowances Act 1951 apply to any payment made under subsection (1)(a).

30 Liability of representatives

No representative on the Forum is personally liable for any liability of the Forum, or for any act done or omitted by the Forum, or by a representative in good faith in the exercise of the functions, duties, or powers of the Forum.

31 Annual report

1. The Forum must, on or before 31 August each year, report to the Minister on the exercise of its powers and the carrying out of its functions during the preceding year ending on 30 June.
2. The report must identify the progress made by the Forum towards achieving the purposes of the Forum set out in section 15.
3. A copy of the annual report must be presented to the House of Representatives by the Minister.

Part 3

Hauraki Gulf Marine Park

32 Purposes of Hauraki Gulf Marine Park

The purposes of the Hauraki Gulf Marine Park are—

- a. to recognise and protect in perpetuity the international and national significance of the land and the natural and historic resources within the Park:
- b. to protect in perpetuity and for the benefit, use, and enjoyment of the people and communities of the Gulf and New Zealand, the natural and historic resources of the Park including scenery, ecological systems, or natural features that are so beautiful, unique, or scientifically important to be of national significance, for their intrinsic worth:
- c. to recognise and have particular regard to the historic, traditional, cultural, and spiritual relationship of tangata whenua with the Hauraki Gulf, its islands and coastal areas, and the natural and historic resources of the Park:
- d. to sustain the life-supporting capacity of the soil, air, water, and ecosystems of the Gulf in the Park.

33 Establishment of Hauraki Gulf Marine Park

1. The Hauraki Gulf Marine Park is established.
2. The Hauraki Gulf Marine Park consists of—
 - a. all conservation areas, wildlife refuges, wildlife sanctuaries, reserves, marine mammal sanctuaries, and marine reserves held, managed, or administered by the Crown from time to time in accordance with the Conservation Act 1987 or any Act in Schedule 1 of that Act within the Hauraki Gulf, its islands, and coastal area:
 - b. any reserve controlled and managed from time to time by an administering body (whether or not that administering body is a local authority) under an appointment to control and manage made in accordance with the Reserves Act 1977 or any corresponding former Act, within the Hauraki Gulf, its islands, and coastal area:
 - c. all foreshore and seabed that is land owned by the Crown within the Hauraki Gulf other than foreshore or seabed held for defence purposes:
 - d. all seawater within the Hauraki Gulf:
 - e. all land of the Crown in the Hauraki Gulf, within a wetland approved by the Minister of Foreign Affairs and notified to the Bureau of the Convention on Wetlands of International Importance done at Ramsar on 2 February 1971:
 - f. all land included in the Park in accordance with section 34 or section 35:
 - g. all mataitai reserves and taiapure-local fisheries included in the Park in accordance with section 36.
3. The inclusion of seawater in the Hauraki Gulf Marine Park is to give effect to the purposes of the Park and does not—
 - a. give the Crown or any other person ownership of seawater; or
 - b. affect the responsibilities of a regional council in the coastal marine area.
4. Land to which subsection (2)(a) applies and which is used for the purposes of education, defence, police, or prisons is not a part of the Park unless the Minister responsible for that use of the land requests the Minister to include the land in the Park; and the Minister may do so by notice in the Gazette.
5. Despite subsection (4), the land described in Part 1 of Schedule 4 that, at the commencement of this section, is held as a reserve and is used for defence purposes—

- a. must be held, and treated as classified, as an historic reserve under section 18 of the Reserves Act 1977; and
 - b. must be treated as included in the Park under subsection (2)(a).
6. If the land or any part of the land described in Part 2 of Schedule 4 that, at the commencement of this section, is held as a reserve and is used for defence purposes, is no longer required for defence purposes, the land—
 - a. must be held, and treated as classified as a recreation reserve under section 17 of the Reserves Act 1977; and
 - b. must be treated as included in the Park under subsection (2)(a).
7. Despite any provision of the Defence Act 1990 and subsection (6), the Minister of Defence may administer and manage the land or any part of the land in Part 2 of Schedule 4 jointly with the Commissioner or an administering body for the purposes of the Park as if it were a recreation reserve under section 17 of the Reserves Act 1977.
8. For the purposes of subsection (7), Commissioner has the same meaning as in section 2 of the Reserves Act 1977.

34 Inclusion of other public land in Park

1. If the person specified in subsection (2) consents to the inclusion of land located in the Hauraki Gulf, its islands, or coastal area and described in subsection (2) in the Park, the Minister may, by notice in the Gazette, include the land if, in the opinion of the Minister, the inclusion of that land is in accordance with the purpose of the Park.
2. The following land may be included in the Park in accordance with this section:
 - a. with the consent of the owner (including the Crown) and the administering body, any reserve within the Hauraki Gulf, its islands, or coastal area, that is owned by or vested in an administering body (whether or not that administering body is a local authority):
 - b. with the consent of a local authority, any reserve within the Hauraki Gulf, its islands, or coastal area that is owned by that local authority:
 - c. with the consent of the local authority, any regional park or other open space or building owned by a local authority and managed to protect its natural or historic values, within the Hauraki Gulf, its islands, or coastal area.

35 Inclusion of land in private ownership in Park

1. If the owner of land located in the Hauraki Gulf, its islands, or coastal area and described in subsection (2) consents to the inclusion of that land in the Park, the Minister may, by notice in the Gazette, and after consulting the Forum and the Conservation Board for the area where the land is located, include the land if, in the opinion of the Minister, the inclusion of that land is in accordance with the purpose of the Park.
2. The following land may be included in the Park in accordance with this section:
 - a. land subject to a conservation covenant entered into under section 77 of the Reserves Act 1977 or section 27 of the Conservation Act 1987:
 - b. land subject to a Nga Whenua Rahui kawenata entered into under section 77A of the Reserves Act 1977 or section 27A of the Conservation Act 1987:
 - c. land subject to a heritage covenant entered into under section 6 of the Historic Places Act 1993:
 - d. land subject to an open space covenant entered into under section 22 of the Queen Elizabeth the Second National Trust Act 1977:
 - e. land subject to a declaration under section 76 of the Reserves Act 1977 that it is protected private land:
 - f. land controlled and managed by a Minister or an administering body for the purposes of the Reserves Act 1977 where the owner has agreed to the use of

land for that purpose in accordance with section 38 of that Act:

- g. any land in the Hauraki Gulf, other than land owned by the Crown, whether or not it is subject to a covenant referred to in paragraphs (a) to (d), within a wetland approved by the Minister of Foreign Affairs and notified to the Bureau of the Convention on Wetlands of International Importance done at Ramsar on 2 February 1971.

36 Inclusion of certain fisheries in Park

If, in the opinion of the Minister, the inclusion of a taiapure-local fishery or mataitai reserve in the Hauraki Gulf Marine Park is in accordance with the purpose of the Park, that taiapure-local fishery or mataitai reserve may, with the consent of the Minister of Fisheries and the committee of management or the tangata whenua, as the case may be, be included in the Park.

37 Effect of Park

1. Any person holding, controlling, or administering land, foreshore, seabed, marine reserve, a taiapure-local fishery, or a mataitai reserve in the Hauraki Gulf Marine Park must recognise and give effect to the purpose of the Park.
2. Nothing in this Part—
 - a. affects any land in the Hauraki Gulf, its islands, or coastal area, that is not expressly included in the Park in accordance with this Part:
 - b. limits the ability of the Minister or an administering body to acquire conservation areas, reserves, wildlife refuges, wildlife sanctuaries, or marine reserves within the Gulf or the Park:
 - c. changes the ownership or management of areas of land, foreshore, seabed, or the waters of the Gulf:
 - d. limits the powers and functions of a regional council in the coastal marine area.
3. Despite subsection (1), land included in the Park in accordance with section 33(2)(a), (b), (c), or (e) continues to be held, managed, or administered in accordance with the Conservation Act 1987, or any Act in Schedule 1 of that Act, if any of those Acts applies to that land.

Removal of land, foreshore, seabed, waters, or fisheries from park

38 Removal of Crown-owned land from Park by Order in Council

1. The Governor-General may, by Order in Council, and acting on the recommendation of the Minister, remove any land in section 33(2)(a), (b), (c), and (e) from the Park.
2. The Minister, before making a recommendation to the Governor-General under subsection (1), must be satisfied that the land no longer serves the purpose of the Park and have regard to the following matters:
 - a. the existing use of the land:
 - b. the purposes of the Act under which the land is held:
 - c. the status or classification of the land.

39 Removal of Crown-owned land from Park by change of status of land

1. Land, marine mammal sanctuaries, and marine reserves in section 33(2)(a), (b), and (c) may be removed from the Park by any of the following actions:
 - a. exchanging a conservation area under section 16A of the Conservation Act 1987:
 - b. disposing of a conservation area under section 26 of the Conservation Act 1987:
 - c. exchanging a reserve under section 15 of the Reserves Act 1977:

- d. revoking a reserve under section 24 of the Reserves Act 1977:
 - e. revoking or disposing of a wildlife refuge or a wildlife sanctuary:
 - f. varying, redefining, or abolishing a marine mammal sanctuary under section 22 of the Marine Mammals Protection Act 1978:
 - g. revoking a marine reserve.
2. Before taking an action under subsection (1), the Minister must, in addition to any requirements of a relevant Act, consider the purpose of the Park and be satisfied that the land or marine reserve no longer serves the purpose of the Park.
 3. A local authority or the administering body of a reserve must, before requesting the revocation of a reserve under section 24 of the Reserves Act 1977, consider the purpose of the Park.
 4. The notice, Order in Council, or other instrument that carries out the action in subsection (1), must state that the land, marine mammal sanctuary, or marine reserve has been removed from the Park.

40 Removal of other areas from Park

The Minister may, by notice in the Gazette, and after considering the purpose of the Park,—

- a. remove any foreshore or seabed or reclamation from the Park; or
- b. remove any land of the Crown within a wetland from the Park; or
- c. with the consent of the local authority, remove any open space or building owned by a local authority and managed to protect its natural or historic values from the Park.

41 Removal of land in private ownership and certain fisheries from Park

1. The Minister may, by notice in the Gazette, remove from the Park—
 - a. any land in private ownership specified in section 35; or
 - b. any taiapure-local fishery or mataitai reserve.
2. The Minister may remove the land, taiapure-local fishery, or mataitai reserve from the Park if the Minister considers that the inclusion of that land, taiapure-local fishery, or mataitai reserve in the Park is no longer serving the purpose of the Park.
3. The Minister must remove the land, a taiapure-local fishery, or a mataitai reserve from the Park within 20 working days (as defined in the Conservation Act 1987) of receipt of a notice requiring the removal of that land, taiapure-local fishery, or mataitai reserve from the Park, from the person whose consent was necessary for inclusion of that land, taiapure-local fishery, or mataitai reserve in the Park.

42 Entries in register

The Registrar-General of Land is authorised and directed to make such entry in the register and to do such other things as may be necessary to show the inclusion of land within the Park or the removal of land from the Park.

43 Notation on survey office plans

The Chief Surveyor is authorised and directed to do such things as may be necessary to show on the survey office plans the inclusion of land within the Park or the removal of land from the Park.

Deed of Recognition

44 Recognition of tangata whenua statement of relationship

1. The Crown or a local authority may acknowledge any statement of particular historic, traditional, cultural, and spiritual relationship of tangata whenua of the Hauraki Gulf with any land, foreshore, or seabed in the Hauraki Gulf Marine Park by entering into

- a Deed of Recognition with tangata whenua in respect of that land, foreshore, or seabed.
2. A Deed of Recognition—
 - a. may not relate to any water:
 - b. may not relate to any land included in the Park in accordance with section 35.
 3. A Deed of Recognition—
 - a. may record the Crown's or local authority's acknowledgement referred to in subsection (1); and
 - b. must identify the area to which the Deed of Recognition relates; and
 - c. may acknowledge, where appropriate, any statement of relationship by any others who claim tangata whenua status with the area; and
 - d. without limiting section 46, must identify specific opportunities for contribution by tangata whenua to the management of the area by the Crown or a local authority.
 4. A Deed of Recognition may be amended or revoked by agreement between the parties.

45 Purpose of Deed of Recognition

Without limiting section 46, the only purpose of a Deed of Recognition is to identify opportunities for contribution by tangata whenua to the management of an area by the Crown or a local authority.

46 Effect of Deed of Recognition

Except as provided in section 44(3)(d) and section 45, a Deed of Recognition—

- a. does not affect the exercise of any power or the carrying out of any function or duty by any person under any Act, regulation, or bylaw; and
- b. must not be taken into account by any person in the exercise of any power or the carrying out of any function or duty under any Act, regulation, or bylaw by that person; and
- c. does not permit any person, when considering any matter or making any decision or recommendation under any Act, regulation, or bylaw, to give any greater or lesser weight to a statement of relationship of tangata whenua with any area, as recorded in a Deed of Recognition, than that person would give under that Act, regulation, or bylaw if no Deed of Recognition existed recording that statement; and
- d. does not affect the lawful rights or interests of any person; and
- e. does not have the effect of granting, creating, or providing evidence of any estate or interest in or any rights of any kind whatever relating to any area referred to in a Deed of Recognition.

47 Other Deeds of Recognition

Where the Crown or local authority has entered into a Deed of Recognition for an area with tangata whenua, that Deed of Recognition does not prevent the Crown or local authority from entering into further Deeds of Recognition for that area with other tangata whenua who may have an historic, traditional, cultural, and spiritual relationship with that area.

48 Notice of Deed of Recognition

When the Crown or local authority enters into a Deed of Recognition, or is a party to a Deed of Recognition that is amended or revoked, the Crown or local authority, as the case may be, must, by notice in the Gazette, give notice of that Deed of Recognition or the amendment to, or revocation of, a Deed of Recognition.

Part 4

Miscellaneous

49 Consequential amendments

The enactments specified in Schedule 2 are amended in the manner indicated in that schedule.

[49A Transitional provisions

1. This section applies to an application for a resource consent for the Hauraki Gulf, its islands, and catchments—
 - a. made before the commencement of this Act; but
 - b. not finally determined before the commencement of the Hauraki Gulf Marine Park Amendment Act 2001.
2. The continuation and completion of an application (including rights of appeal) must be in accordance with the Resource Management Act 1991 as if this Act had not been enacted.
3. Subsection (4) applies to an application that, under section 119(4) of the Resource Management Act 1991, has been referred back to the hearing committee or Environment Court for a recommendation or report on the matters contained in sections 7 and 8 of this Act.
4. The Minister must consider the application as if the referral back had not been made.
5. For the purposes of subsection (4), the time period under section 119(1) of the Resource Management Act 1991 begins again from the date of the commencement of the Hauraki Gulf Marine Park Amendment Act 2001.]

[49B Applications finally determined

1. This section applies to an application for a resource consent for the Hauraki Gulf, its islands, and catchments—
 - a. made before the commencement of this Act; and
 - b. finally determined—
 - i. before the commencement of the Hauraki Gulf Marine Park Amendment Act 2001; and
 - ii. without complying with section 9(4) of this Act.
2. A decision (including a decision on an appeal) relating to an application has effect, on and from the date it is made, as if this Act had not been enacted.]

50 Map to indicate boundaries

The catchment area and coastal marine area of the Hauraki Gulf are indicated in general terms only on the map in Schedule 3, and do not affect the definitions of the terms coastal marine area, catchment, or Hauraki Gulf in section 4, or any other provision of this Act.

Schedule 1

Acts to which Part 1 applies

Biosecurity Act 1993 (Part 5)

Conservation Act 1987

Fisheries Act 1983

Fisheries Act 1996

[Foreshore and Seabed Act 2004]

s 13

Harbour Boards Dry Land Endowment Revesting Act 1991

Historic Places Act 1993

Local Government Act 1974

[Local Government Act 2002]

Marine Farming Act 1971

Marine Mammals Protection Act 1978

Marine Reserves Act 1971

National Parks Act 1980

Native Plants Protection Act 1934

New Zealand Walkways Act 1990

Queen Elizabeth the Second National Trust Act 1977

Reserves Act 1977

Resource Management Act 1991

Soil Conservation and Rivers Control Act 1941

Trade in Endangered Species Act 1989

Wild Animal Control Act 1977

Wildlife Act 1953

Schedule 2

Enactments amended

s 49

Conservation Act 1987 (RS Vol 36, p 1)

Insert in section 17D(1), after the words "New Zealand Walkways Act 1990", the words "Hauraki Gulf Marine Park Act 2000":

Insert in section 17E(4), after the words "Marine Mammals Protection Act 1978", the words "Hauraki Gulf Marine Park Act 2000".

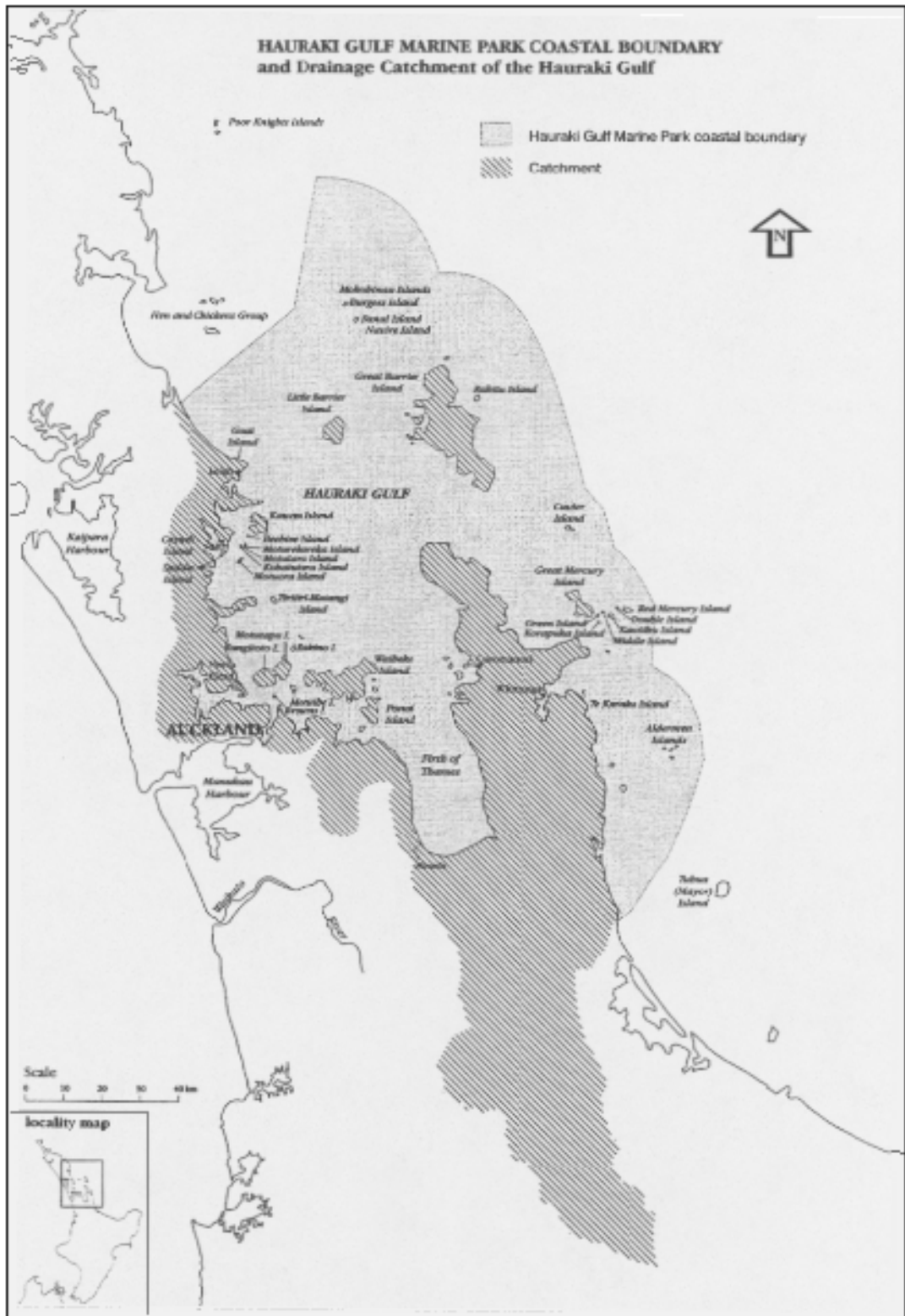
Environment Act 1986 (RS Vol 36, p 223)

Add to Schedule 1, after the item "Harbours Act 1950", the item "Hauraki Gulf Marine Park Act 2000".

Local Government Official Information and Meetings Act 1987 (RS Vol 35, p 347)

Insert in Part 2 of Schedule 1, after the item "The Greytown Trust Lands Trustees", the item "Hauraki Gulf Forum".

Schedule 3 Map to indicate Hauraki Gulf



Schedule 4

Description of HMNZS Tamaki Reserve

Part 1

Defence land held as historic reserve

All that land comprising 2.7755 hectares, more or less, being Section 3, SO Plan 69845.

Part 2

Land held as reserve for defence purposes

All that land comprising 8.2103 hectares, more or less, being Section 1 and Section 2, SO Plan 69845.

Legislative history

24 November 1988 Introduction and first reading (Bill 244 - 1)

24 November 1988 Second reading and referral to Transport and Environment Committee

16 July 1999 Reported from Transport and Environment Committee (Bill 244 - 2)

29 July 1999 Consideration of report

22 February 2000 Committee stage (Bill 244 - 3)

24 February 2000 Third reading

This Act is administered in the Department of Conservation.