



## Authority To Hold an Organised Maritime Event within Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary

**THIS AUTHORITY** is made this 28 day of September 2023

### BACKGROUND

- A. Under clause 5(4)(i) of the Marine Mammals Protection (Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary) Notice 2021, any person in charge of, or crew on board of, a vessel; or any person in the water; actively participating in and registered in an organised event requires prior approval (lawful authority) from the Department of Conservation to undertake an activity that would otherwise be an offence. Such approval may be granted by the Director-General of Conservation (“Director-General”) pursuant to section 53(2)(i) of the Conservation Act 1987.
- B. The Authority Holder named in Schedule 1 made an application for an Authority and a Marine Mammal Protection Act 1978 permit. (“the Application”).
- C. The Director-General has considered the Application and has determined that it shall be partially authorised, as detailed in Schedule 1.
- D. The activities approved under this Authority therefore have “lawful authority”.

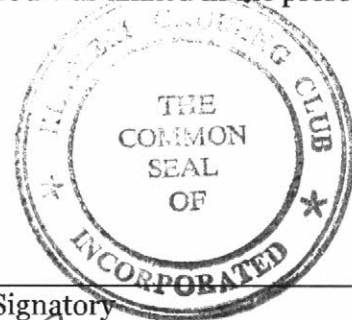
In exercise of the Director-General’s powers under the Conservation Act 1987, the Director-General **ISSUES** to the Authority Holder an **AUTHORITY TO HOLD AN ORGANISED MARITIME EVENT** in **TE PĒWHAIRANGI (BAY OF ISLANDS) MARINE MAMMAL SANCTUARY** on the terms and conditions contained in this Authority and its Schedules.

**SIGNED** by **Bronwyn Bauer Hunt**,  
**Operations Manager, Bay of Islands**  
under Instrument of Delegation dated 8  
September 2015 from the Minister of  
Conservation

Witness Name: Michael Dine  
Witness Occupation: Permissions Advisor  
Witness Address: 161 Cashel Street

A copy of the Instrument of Delegation may be inspected at the Director-General of Conservation’s office at 18 Manners Street, Wellington.

The seal of the **Kerikeri Cruising Club Incorporated** was affixed in the presence of:



Authorised Signatory  
Name:

Authorised Signatory  
Name:

# SCHEDULE 1

1.	<b>The Authority Holder</b>	Kerikeri Cruising Club Incorporated
2.	<b>The Area of Operation</b>	Te Pēwhairangi Bay of Islands Marine Mammal Sanctuary Excluding safe zones See maps in Schedule 4
3.	<b>Species (Schedule 2 Clause 1.2)</b>	All marine mammal species
4.	<b>The Authorised Activity</b>	Undertake an organised event in the Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary (MMS), being lawful authority for registered race participants and one media support/water taxi vessel to:  Breach clause 5(2) of Marine Mammals Protection (Te Pēwhairangi (Bay of Island) Marine Mammal Sanctuary) Notice: <ul style="list-style-type: none"> <li>• Vessels authorised to be within 300m of any marine mammal within the Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary without coming to a complete stop</li> </ul>
5.	<b>Maximum number of vessels (Schedule 3 Clause 2)</b>	Keelboats: 20 Centreboard: 25
6.	<b>Duration of Event</b>	Keelboat: 8 hours Centreboard: 7 hours
7.	<b>Days of week for recurring events</b>	<u>Summer</u> Keelboat: alternate Wednesdays, alternate Fridays, weekend days as per calendar <a href="https://kerikericruisingclub.org.nz/">https://kerikericruisingclub.org.nz/</a> Centreboard: Tuesdays, Sundays <u>Winter</u> Keelboat: Sundays Centreboard: Saturdays & Sundays
8.	<b>Maximum Number of Races Per Day</b>	6
9.	<b>Names of Authorised Participants (Schedule 3 Clause 2)</b>	All registered participants of the events as provided to the Operations Manager, Bay of Islands
10.	<b>Term</b>	From the date of signing to 30 November 2024.
11.	<b>Addresses for Notices</b>	The Authority Holder's address for notices in New Zealand is: Name: Melanie MacDiarmid Email: <a href="mailto:info@kerikericruisingclub.org.nz">info@kerikericruisingclub.org.nz</a> Phone: 027 271 4054 Postal: 346 Opito Bay Road RD1, 0294 Kerikeri
12.	<b>Processing Fee</b>	\$520.00 plus GST, fully waived
13.	<b>Monitoring</b>	On a cost recoverable basis subject to standard Departmental charge out rates.

# SCHEDULE 2

## 1. Interpretation

1.1 The Authority Holder is responsible for the acts and omissions of its registered race participants, employees, contractors, agents, clients and invitees. The Authority Holder is liable under this Authority for any breach of the terms of the Authority by its registered race participants, employees, contractors, agents, clients and invitees, as if the breach had been committed by the Authority Holder.

1.2 The following (each being species of “marine mammal” as defined in the Marine Mammals Protection Act 1978) are defined in the Marine Mammals Protection Regulations 1992, as follows;

**dolphin** means –

(i) all species commonly known as dolphins; and includes dusky dolphins, common dolphins, bottlenose dolphins, and Hector’s dolphins; but

(ii) does not include the species known as killer whales and pilot whales.

**seal** means all species commonly known as seals and sea lions; and includes New Zealand fur seals, leopard seals, southern elephant seals, and Hooker’s sea lions.

**whale** means all species commonly known as whales; and includes baleen whales, sperm whales, beaked whales, killer whales, and pilot whales.

## 2. What is being authorised?

2.1 The Authority Holder and Authorised Participants only allowed to carry out the Authorised Activity in the Area of Operation as specified in Items 2 and 4 in Schedule 1.

2.2 In carrying out the Authorised Activity the Authority Holder must not exceed the maximum number of vessels participating in the event, media support / water taxi vessels, and number of races per day as specified in Items 5, 6, and 10 of Schedule 1.

2.3 Only vessels and registered participants specified in Items 5, 6 and 11 of Schedule 1 may undertake the Authorised Activity specified in Item 4 of Schedule 1.

## 3. What is the Duration of the Authority?

3.1 This Authority commences and ends on the dates specified in Item 12 of Schedule 1.

## 4. What are the fees and when are they to be paid?

4.1 The Authority Holder must pay to the Director-General a cost recovery charge, specified in Items 14 and 15 of Schedule 1 which the Director-General is to set, based on the costs associated with administration, research and impact monitoring of the Authorised Activity.

## 5. When can the Authority be suspended, revoked, restricted, or amended?

5.1 The Director-General may suspend, revoke, restrict or amend the Authority at any time if the Authority Holder or Authorised Participants breach the Authority, provisions of the Marine Mammals Protection (Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary) Notice 2021, Marine Mammals Protection Regulations 1992, or Marine Mammals Protection Act 1978.

## 6. How are notices sent and when are they received?

- 6.1 Any notice to be given under this Authority is to be in writing and made by personal delivery, fax, by pre-paid post or email to the Authority Holder at the address, fax number or email address specified in Item 13 of Schedule 1. Any such notice is to be deemed to have been received:
- (a) in the case of personal delivery, on the date of delivery;
  - (b) in the case of post, on the 3<sup>rd</sup> working day after posting;
  - (c) in the case of email, on the date receipt of the email is acknowledged by the addressee by return email or otherwise in writing.
- 6.2 If the details set out in Item 13 of Schedule 1 change, then the Authority Holder must within 5 working days of such change provide the Director-General with the changed details.

## **7. Some General Matters**

- 7.1 The Department may undertake compliance monitoring of the Authority conditions. Pursuant to Section 60B of the Conservation Act 1987, the Department may recover the reasonable costs associated in carrying out such monitoring from the Authority Holder.
- 7.2 The Authority Holder must provide carriage free of charge to a Departmental officer or representative, on marker vessels, safety vessels, or any other vessel associated with the event for the purpose of monitoring, provided that reasonable notice is given by the Department.
- 7.3 The Authority Holder must provide, if and when requested by the Operations Manager, Bay of Islands, a report on the distribution, abundance and behaviour of marine mammals in the area of operation under the authority of this Authority.

## **8. Are there any Special Conditions?**

- 8.1 Special conditions are specified in Schedule 3. If there is a conflict between this Schedule 2 and the Special Conditions in Schedule 3, the Special Conditions are to prevail.

# **SCHEDULE 3**

## **SPECIAL CONDITIONS**

1. The Authority Holder must provide the Department of Conservation (“DOC”) Operations Manager, Bay of Islands with a list of the names and contact details of the persons in charge of the vessels registered in the event and the media support / water taxi vessel prior to the event, including crew members where possible.
2. The Authority holder must brief all participants of the event with the terms and conditions of this Authority, to the Marine Mammals Protection Regulations 1992 and Marine Mammals Protection (Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary) Notice 2021.
3. This Authority does not exempt the Authority Holder from regional coastal plan requirements.
4. The Authority Holder must cease all authorised activity if any serious injury or death of a marine mammal occurs and notify the DOC Operations Manager Bay of Islands immediately. The Authority Holder must follow any instruction given to rehabilitate, transport, or dispose of the marine mammal(s) concerned.
5. This Authority does not allow the Authority Holder to undertake commercial marine mammal tour operations or to charge a person where the purpose is to view marine mammals.

6. The Authority Holder is responsible for the health and safety of all persons involved in the event carried out under this Authority and must indemnify the Minister and the Crown against all and any action, claim, injury, damage, and loss which may arise in any manner whatsoever from the issue of this Authority.
7. The Authority Holder is responsible for all costs associated with activity under the Authority.
8. The Authority Holder must undertake activities as per the Application attached in Schedule 4 of this Authority, to the extent that they have been expressly authorised in Schedule 1. If there is a conflict between Schedules 1, 2 and 3 and the Application attached in Schedule 4, then the Schedules 1, 2 and 3 shall prevail.

## Schedule 4 – The Application

### A. Marine Mammals Protection Regulations 1992

Please tick the relevant activity boxes to help determine how the application will be assessed:

<input type="checkbox"/>	Use of a drone or RPAS* to film marine mammals
<input type="checkbox"/>	There will be more than 3 vessels within 300m of a marine mammal
<input type="checkbox"/>	Vessels will be traveling at a speed greater than no wake / 10 knots within 300m of a marine mammal
<input type="checkbox"/>	Vessel will be approaching closer than 50 metres to a whale (including orca, pilot whale, false killer, whale)
<input type="checkbox"/>	There will be a person/s in the water to closer than 100 metres to a whale (including orca, pilot whale, false killer, whale)
<input type="checkbox"/>	Vessel or person to approach closer than 200 metres to any female baleen or sperm whale that is accompanied by a calf or calves
<input type="checkbox"/>	There will be a person in the water with juvenile dolphins
<input type="checkbox"/>	Use of a commercial aircraft at an altitude below 150 metres (500 feet) above sea level, unless taking off or landing
<input type="checkbox"/>	Vessels proceeding through pods of dolphins
<input type="checkbox"/>	Use an aircraft closer than 150 metres (500 feet) to a marine mammal horizontally from a point directly above a marine mammal

\*Note: RPAS means a Remotely Piloted Aircraft System as defined under Civil Aviation legislation.

### B. Te Pēwhairangi (Bay of Islands) Marine Mammal Sanctuary

Please tick the relevant activity boxes to help determine how the application will be assessed:

<input type="checkbox"/>	A person in the water within 300m of any marine mammal in the MMS
<input checked="" type="checkbox"/>	Vessel to approach closer than 300m to any marine mammal in the MMS

## C. Details of the proposed event

Duration of permit (term)	From approval until December 2024
Explain why you are seeking this duration	December 2024 is review date for the Marine Mammal Sanctuary. Club's activities are the same each year (annual calendar to be provided as finalised).
Type of event i.e. swimming, sailing etc	Sailing with small number of engine powered support/safety vessels

### Proposed base and area of event

**Attach a map of the proposed area of operation for the event.** It must clearly show:

- Proposed base (vessel departure location) of the event
- Proposed area of operation for the event
- The route or routes that participants will travel

on Record your map details in Section 'M Attachments'.

Map questions	Written description
Proposed base of operation	Kerikeri Cruising Club – 1. 346 Opito Bay Road, RD1, Kerikeri 2. Kerikeri Inlet – east of Aroha Island & west of Akeake Point
Proposed area of operation	Bay of Islands – primarily activities are centred around the western Bay of Islands, in the Kerikeri & Te Puna Inlets, however courses also occasionally cover areas in the eastern Bay of Islands.
Proposed route(s) that participants will travel on	Keelboat <i>Race Courses</i> list provided. Course selection on the day is based on weather & the nature of the race being run. Summer evening races for example tend to be shorter in duration, & centred around the western Bay, while alternate Sundays in winter & weekend racing in the summer may include courses through the eastern Bay.  Centreboard training & racing is primarily located in the Kerikeri Inlet & Te Puna. Very occasionally centreboard vessels will venture slightly further afield in the western Bay.

**Event duration and frequency**

*Weekly recurring club events should attach a calendar of events in Section M where possible*

Duration of event  
*(in hours or days if multi-day event proposed)*

Various – 2021/2022 calendar attached, subsequent years will be very similar  
Keelboat - Evening summer racing generally lasts for 90 minutes-2 hours per race & weekend races up to 8hours depending on the individual race/event.  
Centreboard: 2hours-all day events (9am-4pm), event dependent

Day(s) of week

Summer



<p><i>i.e. if multiple events per week for club races</i></p>	<p>Keelboat: alternate Wednesdays, alternate Fridays, weekend days as scheduled  Centreboard: Tuesdays, Sundays</p> <p>Winter  Keelboat: Sundays  Centreboard: Saturdays &amp; Sundays</p> <p>See calendar for full details</p>
<p>Time of events  <i>e.g. 5pm-7pm</i></p>	<p>Varies calendar attached</p>
<p>Maximum number of races proposed per day</p>	<p>Varies – calendar attached</p>
<p>Maximum number of vessels (or participants if a swim event) participating in events</p>	<p>Keelboat racing fleets vary greatly. Friday night racing activities during the summer may attract up to 20 boats, but fleets are regularly 10-15 boats across the season. Most boats will carry 4-5 crew members. There are no officials on the water for these events.</p> <p>Centreboard participant numbers vary from event to event. Centreboard training will attract approx. 20-25 participants on a regular basis with 10-15 yachts plus 2-3 support boats. Centreboard regatta can occasionally attract larger numbers of participants.</p>
<p>Number of Safety, Marker, or Media Vessels</p>	<p>Centreboard: 2-3 for training, 3-6 for occasional larger regatta, occasionally 1 media &amp; very rarely 1-2 regatta committee boats  Keelboat: 1 media</p>

## D. Assessment of effects

Please describe the effects of your activity and any proposed methods to avoid, remedy, or mitigate them:

**Effect – Disturbance of marine mammals in the Pewhairangi Marine Mammal Sanctuary area during race event.**

Proposed mitigation –

- Pre-race information and clear, consistent briefing to all skippers of the rules of the sanctuary, what is being exempted at specific times and what is not exempted. Sailing instructions & briefing material/presentations will include instructions to the effect “While racing & preparing to race (from the 5min preparatory signal until the finish), vessels racing & preparing to race shall not be required to comply with BOI Marina Mammal Sanctuary requirements. These requirements must be complied with at all other times. The key requirement is, vessels coming within 300m of a marine mammal must come to a stop.**
- Designated marine mammal spotters on all participating/exempted vessels.**
- Communications between DOC monitors and vessels if marine mammals are on the course. Sailing instructions & briefing material/presentations will include instructions to the effect “if while racing or preparing to race, a vessel comes within 300m of a marine mammal, this must be reported to the Race Committee within 60 minutes of finishing. Details shall include the vessel name, the marine mammal(s) encountered, the time & location”. This will then be communicated to DOC.**

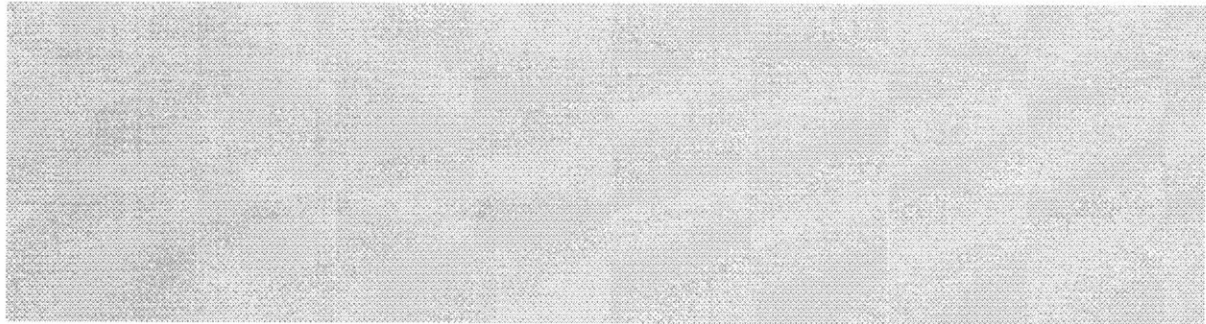
**Effect – Encountering marine mammals in the Pewhairangi Marine Mammal Sanctuary while participating vessels are spending time in the Bay of Islands outside the race event.**

**Proposed mitigation –**

- Ensure skippers clearly understand that the Marine Mammal sanctuary rules will apply to them at all times outside of scheduled racing and practice times.**

**Additional actions to support the Marine mammal Sanctuary:**

- Communication with event participants - We will include all marine mammal sanctuary information in our communication to skippers and crew. In our event briefing we will brief skippers, crew and support personnel of the rules and regulations, we will add this to our website and also in our sailing programme.**
- Include information about the marine mammal sanctuary to support DOC's communication going forward.**
- Club Sailing Instructions require no discharge of trash**
- Club has implemented a clean hull policy in relation to new vessel entering its marina to reduce the risk of marine pest invasion.**



## E. Vessel type

**Describe the types of vessels that will be participating or otherwise involved in the event.**

*Include all known details of the vessels such as primary propulsion method etc.*

Vessel class and description

*The class of vessels that will be participating in the event*

Keelboat yachts: 5m-25m long

Centreboard yachts: up to 7m long

Support Vessels Description

*support vessel means any vessel used for coaching, marshalling and rescue attendance for training, regattas and competitions – note, these vessels may not be authorised to breach the requirements of the Marine Mammal Protection Regulations and Marine Mammal Sanctuary*

Inflatable RIBs up to 6m

Committee boats – launches or yachts up to 20m long

Any other vessel description

*i.e., media vessels - note, these vessels will not be authorised to breach the requirements of the Marine Mammal Protection Regulations and Marine Mammal Sanctuary*

Media boat – launches or yachts up to 20m long

## F. Background of proposed operator

State the applicant's experience operating organised maritime events

Kerikeri Cruising Club is a Yachting NZ affiliated club that has been organising & promoting the sport of sailing, yacht racing & boating in the Bay of Islands since 1934. Officials are experienced at running the events listed & individuals hold different qualifications.

State the applicant's knowledge of operating within the local area, and of the sea and weather conditions (e.g. number of years' experience operating within the area).

The Club has organised sailing events since 1934 (88 years). Risk management plans are in place that include sea state & weather condition assessment & mitigation.

Has the applicant ever received any compliance action from the Department of Conservation in relation to marine mammals? If yes provide detail.

No

## G. Operational best practice based on recommended DOC guidelines

<b>Best Practice for Racing Events</b>	
<i>Best practice may differ based on the size of the event i.e., small local club events may have less potential for adverse effects than large annual events. Please tick the boxes in which you/your organisation will be undertaking to mitigate the effects that organised racing may have on marine mammals.</i>	
Before, during, and after races occur, have designated marine mammal spotters looking out for marine mammals	<input checked="" type="checkbox"/>
Before and after races, all vessels will be operating in accordance with the Marine Mammals Protection Regulations and the Marine Mammal Sanctuary rules	<input checked="" type="checkbox"/>
All vessels associated with the event that are not actively participating* or registered in in the race to operate in accordance with the Marine Mammals Protection Regulations and the Marine Mammal Sanctuary rules at all times <i>*e.g. media vessels and support vessels</i>	<input checked="" type="checkbox"/>
Recording and reporting all sightings of marine mammals to DOC at boimms@doc.govt.nz	<input checked="" type="checkbox"/>
Establishment of 600m "safety zone" for the duration of the event that must be maintained around the sound source (e.g course or area being used for the event. All vessels, except those actively racing/competing, shall be halted when a marine mammal enters the 600m safety zone and resume only after the animal has been gone from the safety zone for a minimum of 15 minutes. The safety zone must be in effect 30 minutes prior to event start and 30 minutes after the event ends.)	<input type="checkbox"/>
DOC-approved biological monitor to conduct surveys before and during race events. Events only commence (delay start protocols) if no marine mammals have entered the 600m safety zone for a minimum of 30 minutes prior to race start time.	<input type="checkbox"/>
All skippers and crew who are appointed in any role pertaining or participating in the proposed event will attend a briefing on expectations organised by the Applicant.	<input checked="" type="checkbox"/>
When seals and sea lions are hauled out on shore or rocks, the vessel will remain 20m or more from water's edge	<input checked="" type="checkbox"/>
When seals and sea lions are hauled out on shore or rocks, swimmers will remain 5m or more from water's edge.	<input checked="" type="checkbox"/>