



## Marae Moana Act 2017

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**An Act to to establish the marae moana within the waters of the Cook Islands and provide for its integrated management.**

**The Parliament of the Cook Islands enacts as follows—**

**1 Title**

This Act is the Marae Moana Act 2017.

**2 Commencement**

This Act comes into force on the day after the day on which it is assented to by the Queen’s Representative.

## **Part 1**

### **Preliminary matters**

#### **3 Purposes**

- (1) The primary purpose of this Act is to protect and conserve the ecological, biodiversity, and heritage values of the Cook Islands marine environment.
- (2) The other purposes of this Act are to do the following, consistently with the primary purpose,—
  - (a) provide an integrated decision-making and management framework to coordinate the work of relevant agencies so as to effectively balance marine conservation with ecologically sustainable use of the marine environment and resources:
  - (b) allow ecologically sustainable use of the marine environment, including for—
    - (i) public enjoyment and appreciation:
    - (ii) public education about, and understanding of, the marae moana:
    - (iii) economic, recreational, and cultural activities:
    - (iv) research relating to its natural, social, economic, and cultural systems and values:
  - (c) encourage engagement in the protection and management of the marine environment by interested persons and groups, including the Government of the Cook Islands and Island Governments, communities, the House of Ariki, the Koutu Nui, business, and industry:
  - (d) assist in meeting the Cook Islands' international responsibilities, in particular its responsibilities under the Convention Concerning the Protection of the World Cultural and Natural Heritage, the Convention on the Conservation of Biological Diversity, and the United Nations Convention on the Law of the Sea.
- (3) In order to achieve its purposes, this Act—
  - (a) provides for the establishment, control, care, and development of the marae moana:
  - (b) establishes the Marae Moana Council:
  - (c) provides principles of ecologically sustainable use to guide the development and management of the Marae Moana:
  - (d) provides for a system of marine spatial planning, including zoning plans and management measures for marine-based activities:
  - (e) facilitates collaborative partnerships between relevant Cook Islands Government agencies, Island Governments, the House of Ariki, the Koutu Nui, non-government, and private sector organisations.

#### **4 Interpretation**

In this Act, unless the context otherwise requires,—

**agency** means—

- (a) the Cook Islands Seabed Minerals Authority:
- (b) the Ministry of Marine Resources:
- (c) the Ministry of Transport:

- (d) the National Environment Service;
- (e) any other agency prescribed for the purpose of this section in regulations made under this Act

**Cook Islander**—

- (a) means a person belonging to the part of the Polynesian race indigenous to the Cook Islands who is ordinarily resident in the Cook Islands; and
- (b) includes any permanent resident as defined in the Entry Residence and Departure Act 1971-72 who is ordinarily resident in the Cook Islands

**Cook Islands** includes the internal waters, territorial sea, exclusive economic zone, and continental shelf of the Cook Islands

**Cook Islands public organisation** means any ministry, department, state owned enterprise, commission, committee, board, corporation, agency, authority, office, service, or other organisation of the Government of the Cook Islands

**continental shelf** has the same meaning as in section 2 of the Continental Shelf Act 1964

**Council** means the Marae Moana Council established by section 9

**ecologically sustainable use** means conserving, using, enhancing, and developing the resources of the marae moana to enable people to provide for their social, economic, and cultural wellbeing, while—

- (a) maintaining the potential of those resources to meet the reasonably foreseeable needs of future generations; and
- (b) avoiding, remedying, or mitigating any adverse effects of the use of those resources on the environment of the marae moana

**exclusive economic zone** has the same meaning as in the Territorial Sea and Exclusive Economic Zone Act 1977

**fishing** has the same meaning as in the Marine Resources Act 2005

**House of Ariki** means the House of Arikis described in Articles 8 to 11B of the Constitution of the Cook Islands

**internal waters** has the same meaning as section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977

**island marine spatial plan** means a marine spatial plan for any of the Cook Islands

**large-scale commercial fishing** means fishing that is subject to the licensing and authorisation provisions of section 20 of the Marine Resources Act 2005

**management measure** means a control, regulatory process, system (including a licensing or permitting system), restriction, or prohibition that—

- (a) is intended to regulate, manage, or control the actions of persons that, if not regulated, managed, or controlled, would or may inhibit the achievement of the purposes of this Act; and
- (b) either—
  - (i) is prescribed as a management measure by any regulations made under this Act or by regulations or other subsidiary legislation made under any other Act; or

- (ii) is approved by Cabinet as a management measure and notified in the Gazette

**marae moana** means the area established by section 8

**marae moana action plan** means the action plan compiled by the Marae Moana Council in accordance with the marae moana policy

**marae moana outlook report** means the marae moana outlook report described in section 34

**marae moana policy** means the policy under section 19 to guide the ongoing development of the marae moana in a manner consistent with the purposes and principles of this Act

**marine spatial plan** means a plan for a specified marine area that includes a map of the marine area and that is produced as a result of a public process of analysing and allocating the spatial and temporal distribution of human activities to achieve ecological, economic, and social objectives

**national marae moana spatial plan** means the national marae moana spatial plan approved under section 22

**pa enua** means those islands of the Cook Islands except Rarotonga

**Rio Declaration** means the Declaration on Environment and Development 1992 of the United Nations Conference on Environment and Development (which met at Rio de Janeiro from 3 to 14 June 1992)

**seabed minerals activity** has the same meaning as in section 7(1) of the Seabed Minerals Act 2009

**species** includes groups of species such as orders, classes, and sub-classes

**Technical Advisory Group** means the Technical Advisory Group established by section 14

**territorial sea** has the same meaning as in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977

**zone**—

- (a) means an area of the marae moana that is designated as a zone for the purposes of this Act; and
- (b) includes an area specified or defined by reference to 1 or more of the following—
  - (i) geographical coordinates:
  - (ii) distances from islands or other basepoints:
  - (iii) elevations above or below sea level.

## 5 Principles of ecologically sustainable use

For the purposes of this Act, the principles of ecologically sustainable use are—

### *Principle of protection, conservation, and restoration*

- (a) the principle of protection, conservation, and restoration is that the areas within the marae moana should be—
  - (i) protected, and their biodiversity conserved, for their cultural and natural heritage value; and

(ii) shared by all Cook Islanders:

*Principle of sustainable use to maximise benefits*

- (b) the principle of sustainable use to maximise benefits is that the marine resources should be used to maximise benefits, while meeting key environmental objectives to benefit current and future generations of Cook Islanders:

*Precautionary principle*

- (c) the precautionary principle is that the precautionary principle of the Rio Declaration should be applied where there are threats of serious or irreversible damage, and that a lack of full scientific certainty should not be used as a reason for postponing cost effective measures to prevent environmental degradation in accordance with the Cook Islands' capabilities in the implementation of the marae moana:

*Principle of community participation*

- (d) the principle of community participation is that all stakeholders should participate in the planning and implementation processes, which means that information exchange, consultation, respect for differing points of view, recognition of culture and traditions, equitable access to opportunities for present and future generations, easily understood and openly justified processes, and the shared ownership of responsibility should be promoted and encouraged in the decision-making processes of the marae moana:

*Principle of transparency and accountability*

- (e) the principle of transparency and accountability is that the processes for assessing, planning, allocating, managing, and evaluating management of ocean resources should provide transparent and clear lines of accountability:

*Principle of integrated management*

- (f) the principle of integrated management is that the integration of decision making across all relevant stakeholders (Government, non-government, and external partners) should be pursued in decisions affecting the operation of this Act:

*Principle of investigation and research*

- (g) the principle of investigation and research is that a culture of investigation and research as a basis of discussion and decision-making should be fostered, and that ocean planning and management decisions should be based on the best available scientific and other information, recognising that current information regarding ocean resources may be limited:

*Principle of ecosystem-based management*

- (h) the principle of ecosystem-based management is that there should be an ecosystem-based approach to the management of natural resources that aims to sustain the health, resilience, and diversity of ecosystems of species, while allowing for sustainable use by humans of the goods and services they provide:

*Principle of sustainable financing*

- (i) the principle of sustainable financing is that adequate funding for activities implemented for the marae moana should be pursued to achieve desired outcomes.

**6 Act binds the Crown**

This Act binds the Crown.

**7 Application of Act**

- (1) This Act applies to activities referred to in this Act that are undertaken within the Cook Islands.
- (2) This Act applies to people within the Cook Islands, whether or not,—
  - (a) in the case of a natural person, he or she is a Cook Islander; and
  - (b) in the case of an incorporated or unincorporated body, it is carrying on business in the Cook Islands.

**Part 2**  
**Marae moana**

*Marae moana established and defined*

**8 Marae moana established**

- (1) The marae moana is established as an area that must be managed for the purposes of this Act, having regard to the principles set out in section 5.
- (2) The marae moana comprises—
  - (a) the internal waters, territorial sea, and exclusive economic zone; and
  - (b) the waters within those areas; and
  - (c) the sea bed within those areas; and
  - (d) the subsoil beneath the sea bed in those areas, extending to 1,000 metres below the sea bed; and
  - (e) the airspace above those areas, extending to 1,000 metres above sea level; and
  - (f) any sea bed and subsoil described in subsection (3).
- (3) If the Cook Islands has jurisdiction for the time being over any area of the continental shelf that is outside the exclusive economic zone, the marae moana includes the sea bed of that extended area and subsoil beneath that sea bed extending to 1,000 metres below the sea bed.

*Marae Moana Council*

**9 Marae Moana Council**

- (1) The Marae Moana Council is established.
- (2) The Council comprises the following members—
  - (a) the Prime Minister;
  - (b) the Leader of the Opposition;
  - (c) the President of the House of Ariki;
  - (d) the President of the Religious Advisory Council;

- (e) two representatives from the pa enua, one from the northern group and one from the southern group;
  - (f) a representative of the private sector appointed by the members referred to in paragraphs (a) to (e);
  - (g) a representative of the non-governmental sector (non-governmental organisations) appointed by the members referred to in paragraphs (a) to (e);
  - (h) a representative of government and state-owned enterprises appointed by the members referred to in paragraphs (a) to (e).
- (3) The members referred to in subsection (2) (a) to (c) may not be represented on the Council by any person appointed or designated to act on their behalf.
- (4) Any Council member (other than any member referred to in subsection (5)) is entitled to be paid any remuneration and allowances for his or her service on the Council that is determined by the Queen's Representative by Order in Executive Council.
- (5) No member of the House of Ariki or Parliament, and no employee in the service of the Crown or any agency of the Crown, is entitled to receive remuneration or allowances as a member of the Council.

#### **10 Duties and functions of Council**

The duties and functions of the Council are to—

- (a) approve revised versions of the marae moana policy; and
- (b) approve the national marae moana spatial plan; and
- (c) approve a schedule of marine-based activities for which management measures are required and any revisions of the schedule; and
- (d) monitor the work of agencies under Part 5 in implementing the aspects of the national marae moana spatial plan and management measures for which those agencies are responsible; and
- (e) approve island spatial plans for Rarotonga and Suvarrow, and any revisions of the plans; and
- (f) approve the marae moana annual report for submission to Parliament; and
- (g) perform the other duties or functions imposed or conferred on it by this Act or any other Act.

#### **11 Chairperson of Council**

The members of the Council must elect one of their number to be chairperson of the Council.

#### **12 Meetings of Council**

- (1) The Council must meet at least once each year to monitor progress of the Marae Moana Coordination Office.
- (2) The Council may meet at any other times that it decides for the purposes of this Act, but the chairperson must call a special meeting whenever 4 or more members request in writing that a special meeting be held for any purpose stated in the request.



- (3) At any meeting of the Council, the quorum necessary to transact business is 5 members, who must be present at the time and place appointed for the meeting.
- (4) Despite subsection (3), the contemporaneous linking together by telephone, video conference, or other electronic means of members of the Council being not less than a quorum constitutes a meeting of the Council so long as any related requirements prescribed by regulations made under this Act are met.
- (5) At any meeting of the Council,—
  - (a) contested decisions may be made by a simple majority of members present; and
  - (b) the chairperson of that meeting has a deliberative vote and a casting vote; and
  - (c) proper minutes must be kept of proceedings.
- (6) The Council may, subject to any provision of this Act and any regulations made under this Act, regulate its own procedure.
- (7) The Council must notify the Prime Minister of the adoption of any procedure as soon as is reasonably practicable after it is adopted.
- (8) The Council must make its written procedures and minutes of meetings available for inspection free of charge to any person.

### **13 Members not personally liable**

A member of the Council is not personally liable for any act done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of the duties, functions, or powers of the Council.

#### *Technical Advisory Group*

### **14 Technical Advisory Group**

- (1) The Technical Advisory Group is established.
- (2) The Technical Advisory Group comprises members appointed by the Prime Minister to represent—
  - (a) the Office of Prime Minister:
  - (b) the National Environment Service:
  - (c) the Ministry of Marine Resources:
  - (d) the Seabed Minerals Authority:
  - (e) the Ministry of Transport:
  - (f) the House of Ariki or the Koutu Nui:
  - (g) non-governmental organisations with expertise in environmental science, marine biology, ecology, or oceanography:
  - (h) non-governmental organisations with expertise in social welfare.
- (3) The Prime Minister may decide the total number of members to be appointed to represent the specified offices or agencies.
- (4) In appointing the members, the Prime Minister must have regard to the desirability that the Technical Advisory Group have gender balance and youth representation.

- (5) The Technical Advisory Group may invite other persons to participate as advisors in its activities.

**15 Duties and functions of Technical Advisory Group**

The Technical Advisory Group must—

- (a) prepare the marae moana policy for approval by the Council, and evaluate, review, and update the policy at 4-yearly intervals; and
- (b) prepare and review the national marae moana spatial plan; and
- (c) prepare and maintain a schedule of marine-based activities for which management measures should be implemented; and
- (d) monitor the work of agencies under Part 5 in implementing the aspects of the national marae moana spatial plan and management measures for which those agencies are responsible; and
- (e) comment on agency draft policies and instruments, including, but not limited to, strategic plans, protected area management plans, seabed mineral agreements, seabed environmental emergency contingency plans, fishery plans, access agreements, and licence and permit conditions; and
- (f) prepare an island marine spatial plan for Suvarrow, and evaluate, review, and update the plan periodically; and
- (g) assist in the preparation of island marine spatial plans for Rarotonga and Island Governments; and
- (h) undertake public education and promotional activities to raise awareness of the restrictions imposed by the national marae moana spatial plan and the management measures; and
- (i) prepare an annual report that records the activities and achievements of the Technical Advisory Group and related matters; and
- (j) take necessary measures to secure national and international sources of finance to support the purposes of this Act; and
- (k) perform other duties or functions imposed or conferred on it by regulations made under this Act.

**16 Discretionary functions of Technical Advisory Group**

The Technical Advisory Group may perform all or any of the following functions as it thinks fit—

- (a) undertake public education and promotional activities within and beyond the Cook Islands to disseminate information on the values, purposes, strategies, and achievements of the marae moana:
- (b) invite to participate in Technical Advisory Group meetings, or other consultative or deliberative processes of the Technical Advisory Group, representatives of Cook Islands public organisations that are not otherwise represented on the Technical Advisory Group:
- (c) invite to participate in Technical Advisory Group meetings, or other consultative or deliberative processes of the Technical Advisory Group, persons who can productively contribute to those meetings or processes:
- (d) engage advisors or consultants to assist in achieving the purposes of this Act:

- (e) plan and undertake, or support others to undertake, scientific and other research that promotes the purposes of this Act:
- (f) on request or on its own initiative, provide written advice on matters relating to or affecting the purposes of this Act to any Minister or other person performing statutory duties or functions:
- (g) recommend to the Council amendments to be made to any legislation, including regulations:
- (h) investigate and pursue the designation of the marae moana as a World Heritage Site under the Convention Concerning the Protection of the World Cultural and Natural Heritage.

**17 Other matters relating to activities of Technical Advisory Group**

- (1) The Technical Advisory Group may, subject to any regulations made under this Act, regulate its own procedure.
- (2) Without limiting section 35, regulations made under that section may—
  - (a) provide for the election of a chairperson of the Technical Advisory Group:
  - (b) specify the quorum necessary for transacting business at meetings of the Technical Advisory Group and the minimum number of meetings to be held in any year:
  - (c) provide for members of the Technical Advisory Group to be represented by delegates nominated in advance of a meeting:
  - (d) specify the term of office of members and provide for their removal or resignation on grounds specified in the regulations:
  - (e) provide for the appointment of specified non-Government members to other bodies or organisations:
  - (f) prescribe additional functions (including discretionary functions) of the Technical Advisory Group that are not inconsistent with this Act and that must or may be performed by the Group.

*Coordination Office*

**18 Marae Moana Coordination Office and coordinator**

- (1) A Marae Moana Coordination Office is established as part of the Office of the Prime Minister.
- (2) The Marae Moana Coordination Office comprises—
  - (a) an office coordinator, by whatever name called; and
  - (b) any other staff that available resources allow and needs require.
- (3) The office coordinator and other staff of the Marae Moana Coordination Office are to be employed under the Public Service Act 2009.
- (4) The office coordinator is responsible to the chief of staff of the Office of the Prime Minister.
- (5) The purpose of the Marae Moana Coordination Office is to assist the Council and the Technical Advisory Group in fulfilling their administrative and consultative functions under this Act by acting as their secretariat.

### **Part 3**

## **Marae Moana Policy and Spatial Planning**

#### **19 Marae moana policy**

- (1) The Marae Moana Policy approved by Cabinet and in existence immediately before the commencement of this Act has effect for the purposes of this Act.
- (2) Within 4 years after this Act comes into force, the Technical Advisory Group must evaluate, review, and update the Marae Moana Policy.
- (3) The Technical Advisory Group must continue to evaluate, review, and update the marae moana policy at 4-yearly intervals.

#### **20 Objective of marae moana spatial planning**

- (1) The objective of marae moana spatial planning is to promote the purposes of this Act by delineating zones within the marae moana and specifying the reasons or uses for which each zone may or may not be used or entered.
- (2) To achieve the objective, this Part provides for the preparation of spatial plans for the marae moana.

#### **21 Types of marae moana spatial plan**

The types of marae moana spatial plans are—

- (a) the national marae moana spatial plan; and
- (b) the island marine spatial plans.

#### **22 National marae moana spatial plan**

- (1) The Technical Advisory Group must, as soon as practicable after this Act comes into force, begin preparing for approval by the Council the national marae moana spatial plan for the entire exclusive economic zone and continental shelf.
- (2) The national marae moana spatial plan must not include any area within the internal waters or the territorial sea, except where those internal waters or territorial sea fall outside the jurisdiction of any Island Government and are not internal waters or territorial sea of the island of Rarotonga.
- (3) The national marae moana spatial plan must include the zones specified in section 23 and provide appropriate measures to make the zones effective.
- (4) The Technical Advisory Group must evaluate, review, and update the national marae moana spatial plan in accordance with any regulations made under this Act.
- (5) The national marae moana spatial plan must be prepared in accordance with any procedure prescribed by regulations made under this Act.

#### **23 National marae moana zones**

- (1) The zones for the national marae moana spatial plan are—
  - (a) a general use zone to provide for the protection of pelagic and benthic habitats of the marae moana, while allowing a range of ecologically sustainable uses:
  - (b) a restricted commercial fishing zone to provide for the protection of pelagic and benthic habitats of the marae moana by restricting most

large-scale commercial fishing activities, while allowing other ecologically sustainable uses:

- (c) a seabed minerals activity buffer zone to provide for the protection of pelagic, benthic, coral reef, coastal, and lagoon habitats of the marae moana by prohibiting all seabed minerals activities, while allowing other ecologically sustainable uses:
  - (d) an island protection zone to provide for the protection of the pelagic, benthic, coral reef, coastal, and lagoon habitats of the marae moana by prohibiting all seabed minerals activities and large-scale commercial fishing, while allowing other ecologically sustainable uses:
  - (e) an ocean habitat preservation zone to provide for the protection and management of sensitive and ecologically valuable pelagic and benthic habitats by prohibiting potentially damaging activities, while allowing other ecologically sustainable uses:
  - (f) a national marine park zone to provide for the strict preservation of the natural integrity and ecological values of specific coral reef, coastal, and lagoon habitats of the marae moana that are remote from any permanent human settlement and are not within the jurisdiction of any Island Government.
- (2) Regulations made under section 35 may create additional national marae moana spatial plan zones.
- (3) The objectives of a national marae moana spatial plan may include—
- (a) protecting areas in the marae moana that are of high conservation value:
  - (b) protecting and conserving the biodiversity of the marae moana, including ecosystems, habitats, populations, and genes:
  - (c) reserving some areas of the marae moana for public enjoyment and appreciation:
  - (d) preserving some areas of the marae moana in a natural state, undisturbed except for the purposes of scientific research that cannot be undertaken elsewhere in the marae moana.

## **24 Marine protected area established**

- (1) A marine protected area of 50 nautical miles (measured from each coastline and as shown in Schedule 1) is established around all islands of the Cook Islands as follows—
- (a) the outer limit of the area is a line measured seaward from the baseline of the territorial sea described in section 5 of the Territorial Sea and Exclusive Economic Zone Act 1977, every point of which is 50 nautical miles from the nearest point of the baseline:
  - (b) the area includes the territorial sea described in section 3 of that Act:
  - (c) that part of the area lying outside the territorial sea is part of the exclusive economic zone described in section 8 of that Act.
- (2) The purpose of the marine protected area established by subsection (1) is to protect the pelagic, benthic, coral reef, coastal, and lagoon habitats of the marae moana and, accordingly, all seabed minerals activities and large-scale

commercial fishing in the area are prohibited, but other ecologically sustainable uses are permitted.

**25 Further marine protected areas may be established**

- (1) The Queen's Representative may, by Order in Executive Council made on the recommendation of the Prime Minister,—
  - (a) establish 1 or more further marine protected areas within the marae moana, either by extending any part of the marine protected area established by section 24 or by establishing any marine protected area outside the area established by that section:
  - (b) specify the purpose of a marine protected area established by the Order:
  - (c) prohibit or restrict the carrying out of specified activities in the marine protected area.
- (2) The boundaries of a marine protected area established by Order in Executive Council must be described in the Order that establishes the area, and the Order must include a map that sufficiently describes the area or the relevant coordinates for the area.
- (3) Before the Prime Minister recommends to the Queen's Representative that an Order be made under subsection (1),—
  - (a) the Prime Minister must ensure that public notice of the proposal is given, and the notice must—
    - (i) state that a plan of the proposal is available for inspection at a place and at times specified in the notice; and
    - (ii) invite interested persons and organisations to lodge with the Prime Minister's office any written objections to or comments about the proposal before a specified date; and
  - (b) the Prime Minister must give full consideration to all objections and submissions received in relation to the proposal.
- (4) Except by an Act of Parliament,—
  - (a) no marine protected area established by an Order made under subsection (1) can be disestablished:
  - (b) no part of a marine protected area established by section 24 or under this section can be excluded from that marine protected area:
  - (c) no Order made under subsection (1) can be repealed, except where it is replaced in the manner provided in subsection (5).
- (5) An Order (the principal Order) made under subsection (1) may be amended or replaced in the same manner (except that subsection (3)(a)(i) does not apply) for the purpose of—
  - (a) making any change of a technical or administrative nature which would enable the principal Order to better achieve any purpose for which it was made:
  - (b) correcting any errors or changing any numbering in the principal Order:
  - (c) updating or deleting, as the case may require, any reference to the name or title of a body, an office, a person, a place, or a thing that has been changed or no longer exists.

- (6) Without limiting any prohibitions or restrictions specified in an Order establishing a marine protected area, an activity is deemed to be prohibited in the marine protected area if it is inconsistent with the specified purpose of the area or is not ecologically sustainable

#### **26 Island marine spatial plans**

- (1) The Technical Advisory Group may, on its own initiative, prepare for approval by the Council an island spatial plan for Suvarrow.
- (2) On the request of a community group on Rarotonga, the House of Ariki, or the Koutu Nui, the Technical Advisory Group must assist them to prepare for approval by the Council an island marine spatial plan for affected internal waters and territorial sea areas.
- (3) On the request of an Island Government, the Technical Advisory Group must assist that Island Government to prepare for approval by the Council an island marine spatial plan for affected internal waters and territorial sea areas.
- (4) All Island Marine Spatial Plans must be made available to the public for comment before they are approved.
- (5) The Council may approve an island marine spatial plan (other than for Rarotonga or Suvarrow) only on the request and with the approval of the affected Island Government.
- (6) Island marine spatial plans must be prepared in accordance with the procedure prescribed by any regulations made under this Act.

### **Part 4**

#### **Scheduled marine-based activities**

#### **27 Scheduled marine-based activities**

- (1) The Technical Advisory Group must, with the advice of appropriate experts, prepare for approval by the Council a schedule of marine-based activities for which management measures must be developed and implemented by agencies in order to reduce, minimise, or eliminate threats or potential threats that those activities pose to the achievement of the purposes of this Act.
- (2) The Technical Advisory Group must give public notice of the proposed schedule or any amendment to it and ensure that the public have adequate time and opportunity to comment on the proposals.
- (3) The schedule of marine-based activities must specify—
  - (a) the name of each activity; and
  - (b) the threats or potential threats that each activity poses to the achievement of the purposes of this Act; and
  - (c) the agency or agencies responsible for developing and implementing the management measures.
- (4) The schedule of marine-based activities must include, but is not limited to,—
  - (a) each marine-based activity that the national marae moana spatial plan either—
    - (i) prohibits from being undertaken in any of the zones described in section 23(1)(a) to (d); or

- (ii) prohibits from being undertaken in any of the zones described in section 23(1)(a) to (d) without a licence or permit obtained in accordance with laws of the Cook Islands; and
  - (b) each marine-based activity regulated or prohibited by a management measure under section 29.
- (5) The Council must publish the schedule in the Gazette and may publish it in any other form as well, but must ensure that any published schedule is kept up to date.

## **Part 5**

### **Compliance with management measures**

#### **28 Agencies to be notified of scheduled marine-based activities**

- (1) When the national marae moana spatial plan comes into force, the Council must notify each agency in writing of the scheduled marine-based activities for which that agency is responsible for developing and implementing management measures.
- (2) Whenever the Council approves any revision of the schedule of marine-based activities after the national marae moana spatial plan comes into force, the Council must, as soon as practicable, notify each affected agency of the additional marine-based activities for which that agency is responsible for developing and implementing management measures.
- (3) Notifications provided under subsection (1) or (2) must include—
  - (a) the reasons why the marine-based activity has been listed in the schedule; and
  - (b) for the management measures that are required to achieve specific requirements of the national marae moana spatial plan, details relating to the boundaries of the relevant zones; and
  - (c) for any marine-based activity, the threat or potential threat to the achievement of the purposes of this Act posed by the marine-based activity; and
  - (d) recommendations of the Council regarding the type, design, status, or other characteristics of the management measures to be developed and implemented for the marine-based activity.

#### **29 Development, implementation, and notification of management measures**

- (1) Each agency that receives a notification under section 28 must develop and implement a management measure to reduce, minimise, or eliminate the threats or potential threats stated in the notification.
- (2) Each agency that develops and implements a management measure under subsection (1) must, as soon as practicable, provide the Council with a copy of the management measure, including a statement explaining how the management measure reduces, minimises, or eliminates the threats or potential threats stated in the notification.



**30 Notifiable compliance events**

Each agency responsible for developing and implementing a management measure under this Act must immediately inform the Technical Advisory Group in writing if that agency—

- (a) commences a process intended to result in the amendment, revocation, or replacement of any management measure; or
- (b) amends, revokes, or replaces any management measure; or
- (c) becomes aware of a breach by any person of any management measure, including enforcement actions or responses taken by the agency in respect of the breach.

**31 Procedure that applies if management measure not developed or implemented**

- (1) The Council, as soon as practicable after becoming aware that an agency responsible for developing and implementing a management measure has failed to comply with its obligations under section 29 or 30, must provide written direction to the agency to comply with those obligations within a reasonable specified period.
- (2) As soon as practicable after the Council forms a view that an agency responsible for developing and implementing a management measure has failed to adequately implement a management measure, the Council must, in writing,—
  - (a) advise the Minister responsible for that agency of its view and explain the inadequacy; and
  - (b) request that the Minister direct the agency to rectify the inadequacy within a reasonable specified period.
- (3) Nothing in this Act prevents a person from bringing any judicial review proceedings before the High Court arising out of, or relating to, an agency's alleged non-compliance or inadequate compliance with any management measure.

**Part 6  
Reporting**

**32 Marae moana agency reports**

- (1) Each agency must, in accordance with any regulations made under this Act, provide an annual marae moana agency report to the Marae Moana Coordination Office that includes the information specified in subsection (2).
- (2) The information concerned is—
  - (a) a statement detailing the implementation status of all management measures for which that agency is responsible under this Act; and
  - (b) all data collected that is relevant to the achievement of the purposes of this Act; and
  - (c) the results of all research held by the agency, whether or not the research was undertaken by the agency, that is relevant to the achievement of the purposes of this Act; and
  - (d) any other prescribed information held by the agency.

- (3) An agency may comply with subsection (1) by reporting the information as part of the agency's annual report under any other Act instead of reporting it in a marae moana agency report to the Marae Moana Coordination Office.
- (4) Despite subsections (1) and (3), the office coordinator of the Marae Moana Coordination Office may at any time, in writing, request an agency to provide that office with any information referred to in subsection (2) that is specified in the request, and the agency must provide the information within a reasonable period specified by the office coordinator (whether or not the agency also reports the information separately for the purposes of subsection (1) or (3)).

### **33 Marae moana annual report**

- (1) The Council must prepare an annual report and submit it to the Prime Minister and Parliament in accordance with any regulations made under this Act.
- (2) Marae moana annual reports must include—
  - (a) a list of key performance indicators in the marae moana action plan for the agency responsible for meeting those indicators; and
  - (b) a summary of each agency's overall progress for the reporting period; and
  - (c) monitoring strategies and actions to overcome individual output challenges; and
  - (d) progress on heads of agencies agreed critical success factors (as reflected in their annual performance agreements); and
  - (e) risk management strategies for the key deliverables at risk of not being achieved; and
  - (f) a summary table indicating progress to date on the achievement of each key deliverable.

### **34 Marae moana outlook report**

- (1) The Council must prepare and submit to the Prime Minister a report (the **marae moana outlook report**) about the marae moana every 6 years. The first report must be provided to the Prime Minister by 30 June 2018.
- (2) The report must describe and assess—
  - (a) the current health of ecosystems within the marae moana and of ecosystems outside the marae moana to the extent that they affect the marae moana; and
  - (b) the status of biodiversity within the marae moana; and
  - (c) commercial and non-commercial use of the marae moana; and
  - (d) risks to the ecosystems within the marae moana; and
  - (e) the resilience of ecosystems within the marae moana; and
  - (f) existing measures in place to protect and manage ecosystems within the marae moana; and
  - (g) factors influencing the current and projected future environmental, economic, and social values of the marae moana; and
  - (h) the long term outlook for ecosystems within the marae moana; and

- (i) any other matter prescribed by the regulations for the purposes of this section.
- (3) The Prime Minister must arrange for the content of the report to be reviewed by at least 3 persons who, in the Prime Minister's opinion, possess appropriate expertise and qualifications to undertake the review.
- (4) The Prime Minister may direct the Marae Moana Council to amend the report in response to comments and feedback received from the reviewers.
- (5) The Prime Minister must cause a copy of the Marae moana annual report and the Marae moana outlook report to be tabled in Parliament within 15 sitting days of the commencement of the next session of Parliament.

## **Part 7**

### **General and miscellaneous provisions**

#### *Regulations*

#### **35 Regulations**

The Queen's Representative may, by Order in Executive Council, make regulations for all or any of the following purposes—

- (a) prescribing any other agency for the purposes of paragraph (e) of the definition of agency in section 4, whether generally for the purposes of this Act or for any particular purposes specified in the regulations:
- (b) prescribing procedures to be followed by the Technical Advisory Group in developing plans:
- (c) defining additional zones for marae moana spatial plans for the purposes of section 23(2):
- (d) prescribing measures that are necessary or expedient to give full effect to the purpose of the marine protected area established by section 24:
- (e) providing for any other matters contemplated by this Act, necessary for its full administration, or necessary for giving it full effect.

#### *Amendments*

#### **36 Amendments to other enactments**

The Acts listed in Schedule 2 are amended as set out in that schedule.

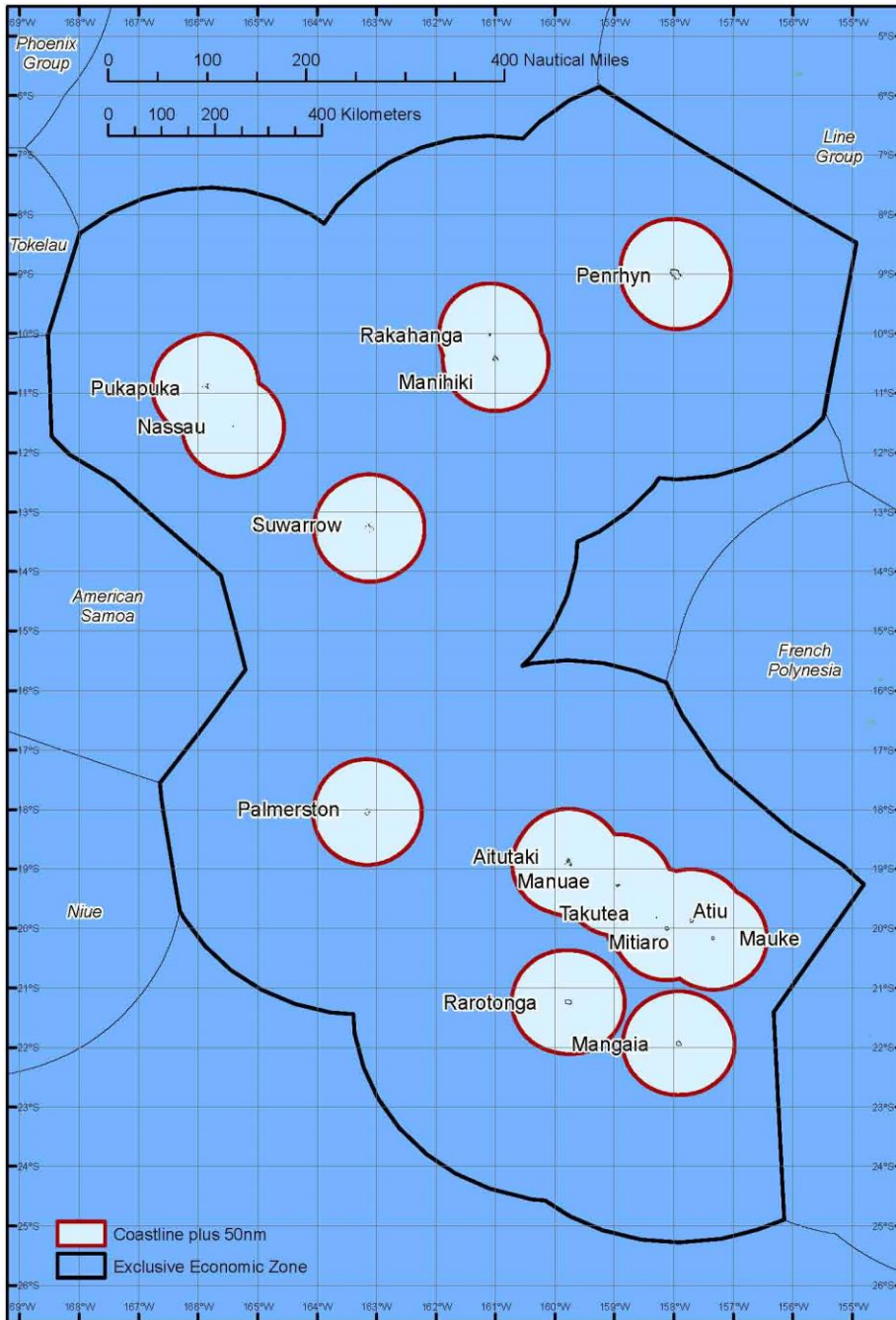
#### *Savings provisions*

#### **37 Savings provisions**

- (1) If a person holds an offshore fishing licence issued under the Marine Resources Act 2005 and in force immediately before the commencement of this Act, nothing in this Act affects any activities carried out in accordance with the licence before the term of the licence expires.
- (2) If a person holds a mining exploration licence issued under the Seabed Minerals Act 2009 and in force immediately before the commencement of this Act, nothing in this Act affects any activities carried out in accordance with the licence before the term of the licence expires.

- (3) Nothing in subsection (1) or (2) implies that any existing affected licence holder has a right to, or a legitimate expectation of,—
- (a) any renewal or extension of a licence; or
  - (b) the grant of any further licence.

### Schedule 1 Marine protected area established by this Act



## **Schedule 2 Amendments to Acts**

### **Environment Act 2003**

In section 9(1), insert the following paragraph after paragraph (q)—

“(qa) support the objectives of the marae moana under the Marae Moana Act 2017;”.

### **Island Government Act 2012-2013**

In section 69, insert the following subsection after subsection (3)—

“(3A) All bylaws made under this Act must be consistent with the provisions of the Marae Moana Act 2017, including the marae moana policy under that Act.”

### **Marine Resources Act 2005**

In section 3, insert the following subsection after subsection (2) —

“(2A) The Ministry of Marine Resources also has the function of supporting the objectives of the marae moana under the Marae Moana Act 2017.”

In section 3(4), insert “and the Marae Moana Act 2017” after “Constitution of the Cook Islands”.

### **Maritime Transport Act 2008**

In section 6(d), insert “; and” after “environment”.

In section 6, insert the following paragraph after paragraph (d)—

“(e) to support the objectives of the marae moana under the Marae Moana Act 2017.”

### **Seabed Minerals Act 2009**

In section 3(1)(f), delete “and.”.

In section 3(1)(g), insert “; and” after “island communities”.

In section 3(1), insert the following paragraph after paragraph (g)—

“(h) to support the objectives of the marae moana under the Marae Moana Act 2017.”

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This Act is administered by the Prime Minister’s Office.  
Printed under the authority of the Cook Islands Parliament—2017.

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