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SUGAR LOAF ISLANDS MARINE PROTECTED AREA

ANALYSIS

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A BILL INTITULED

5 **An Act to provide for the setting up and management of the Sugar Loaf Islands Marine Protected Area for the purpose of protecting that area of the sea and foreshore in its natural state as the habitat of marine life for the enhancement of recreational activities**

BE IT ENACTED by the Parliament of New Zealand as follows:

1. **Short Title**—This Act may be cited as the Sugar Loaf Islands Marine Protected Area Act 1990.

10 2. **Interpretation**—In this Act, unless the context otherwise requires—

“Area” means any part of—

- 15 (a) The seabed vertically below an area of the surface of—
- (i) The territorial sea of New Zealand; or
- (ii) The internal waters of New Zealand as defined by section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977; or
- 20 (b) The foreshore of the coast of New Zealand;—
and includes any water at any material time upon or vertically above it:

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incl. GST \$2.20

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Protected Area*

- “Commercial fisherman” means any person who has a fishing permit issued under section 63 of the Fisheries Act 1983 entitling the person to take any species or class of fish, aquatic life, or seaweed; and includes—
- (a) Any person who is engaged in any capacity on a New Zealand fishing vessel; and
- (b) Any person, whether or not on board any fishing vessel, who takes any fish, aquatic life, or seaweed for the purposes of sale:
- “Conservation area” means that part of the protected area that is the area of New Zealand fishery waters enclosed by a circle of 500 m radius with a centre point at 39°03′29.34″S and 174°00′11.21″E on Waikaranga (Seal Rock):
- “Director-General” means the Director-General of Conservation:
- “Marine life” means any species of the plant or animal kingdoms which at any time of the life of the species inhabits the sea or foreshore; and includes any specimen of the species whether alive or dead, and any part of any specimen, and the seed, spores, eggs, spawn, young, fry, and offspring of the species; but does not include wildlife within the meaning of the Wildlife Act 1953:
- “Mining” means—
- (a) A coal mining right within the meaning of the Coal Mines Act 1979:
- (b) Mining operations or prospecting within the meaning of the Petroleum Act 1937:
- (c) Any authority to prospect or mine for ironsands granted by the Ministry of Energy pursuant to section 3 of the Iron and Steel Industry Act 1959, and any authority to enter on land given by him pursuant to section 6 of that Act, and any right to prospect or mine for ironsands which by virtue of section 5 of that Act may continue to be exercised as if the said section 3 had not been passed:
- (d) A mining privilege within the meaning of the Mining Act 1971:
- (e) Any licence issued under section 5 of the Continental Shelf Act 1964 to prospect or mine for any mineral, or carry on any operations for the recovery of any mineral:

(f) Any right to prospect or mine for minerals conferred by any other enactment or by any instrument:

“Minister” means the Minister of Conservation:

5 “Protected Area” means the area, waters, and islands bounded by a line commencing at the mean high-water mark drawn from a point $39^{\circ}04'19.75''$ S and $174^{\circ}01.10.85''$ E; then in a westerly direction to a point $39^{\circ}03'56.37''$ S and $173^{\circ}59'57.10''$ E; then
10 along the line of an arc of 900 m radius from a point $39^{\circ}03'29.34''$ S and $174^{\circ}00'11.21''$ E on Waikaranga (Seal Rock) to a point $39^{\circ}03'10.69''$ S and $173^{\circ}59'42.41''$ E; then in a line to a point $39^{\circ}02'31.90''$ S and $174^{\circ}00'23.72''$ E; then along the line of an arc of
15 900 m radius from a point $39^{\circ}02'50.54''$ S and $174^{\circ}00'52.51''$ E on Motumahanga (Saddleback Island) to a point $39^{\circ}02'28.42''$ S and $174^{\circ}01'16.93''$ E; then along a line from the navigation light on the lee breakwater of Port Taranaki at $39^{\circ}03'24.15''$ S and $174^{\circ}02'39.98''$ E; to a point where this
20 line intersects the northwestern boundary of the New Plymouth Roadstead extended; then to a point where the northwestern boundary of the New Plymouth Roadstead crosses the mean high-water mark in the vicinity of Paritutu; then in a southwesterly direction
25 along the mean high-water mark to the point of commencement.

3. Sugar Loaf Marine Protected Area to be maintained in natural state, and public to have right of entry—

30 hereby declared that the provisions of this Act shall have effect for the purpose of protecting the Sugar Loaf Marine Protected Area (the “protected area”), which contains underwater scenery, natural features, and marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their
35 continued preservation is in the national interest.

(2) It is hereby further declared that, having regard to the general purpose specified in subsection (1) of this section, the protected area shall be so administered and maintained under the provisions of this Act that—

- 40 (a) It shall be preserved as far as possible in its natural state:
(b) The marine life of the protected area shall as far as possible be protected and preserved:

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- (c) The value of the protected area as the natural habitat of marine life shall as far as possible be maintained:
- (d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the marine life or for the welfare in general of the reserves, the public shall have freedom of access and entry to the protected area, so that they may enjoy in full measure the opportunity to study, observe, and record marine life in its natural habitat.
- (e) The protected area shall henceforth be exempt from mining or from any specified mining purpose.

4. Restrictions on fishing around Sugar Loaf Islands—

- (1) No commercial fisherman shall take or have in possession any fish taken within the protected area other than as permitted under **subsection (2) and (3)** of this section.
- (2) Subject to **subsection (3)** of this section, any commercial fisherman may take by trolling a combined total of 100 kingfish and kahawai within the protected area in any day.
- (3) Where more than one commercial fisherman is on board any vessel, the maximum combined total of kingfish and kahawai that may be taken within the protected area from that vessel shall be 100.
- (4) No commercial fisherman shall be in possession of any fishing gear within the protected area that is not permitted to be used in that area unless the gear is stowed or sealed in such a manner that it cannot readily be used for fishing.
- (5) No person shall use any net or set line within the protected area.
- (6) No person may use within the protected area any line having more than 3 hooks.
- (7) No person shall take any fish within the conservation area other than kingfish or kahawai taken by trolling or by spearfishing.
- (8) No person shall be in possession of any fishing gear within the protected area that is not permitted to be used in that area unless the gear is stowed or sealed in such a manner that it cannot readily be used for fishing.
- (9) No person shall be in possession of any fishing gear within the protected area that is not permitted to be used in that area unless the gear is stowed or sealed in such a manner that it cannot readily be used for fishing.

(10) For the purposes of this section, the expression “trolling” means line fishing using an artificial lure with the line being towed by a vessel making way.

5 **5. Protected area to be Conservation Park**—(1) The protected area is hereby deemed to be a Conservation Park within the meaning of section 19 of the Conservation Act 1987 and the provisions of that Act, with any necessary modifications, shall apply to the protected area.

10 (2) Section 38 (5) of the Conservation Act 1987 shall not apply to the protected area.

6. Boundaries of protected area to be marked—The boundaries of the protected area shall be marked and at all times be kept marked, by means of such beacons, lights, buoys, or marks as may be indicated by the Director-General:

15 Provided that the Director-General may waive the requirements of this section in respect of any boundary satisfactorily indicated by means of a natural geographical feature.

20 **7. Rights of access and navigation**—(1) Subject to any bylaw made under this Act, any right of access to or upon any foreshore or part of the foreshore of the protected area or any right of navigation (other than anchorage) through or across any water at any material time comprised in the protected area shall remain unaffected.

25 (2) Notwithstanding anything in this Act, or in any regulations or bylaws made under this Act, in time of stress or emergency any vessel may anchor within the protected area and such measures may be taken by any person to avoid loss of human life or of property or injury to human life or to property
30 as in the circumstances shall be expedient.

8. Regulations—The Governor-General may from time to time, by Order in Council, make, all such regulations as are necessary for the due administration of, and for giving full effect to, the provisions of this Act.