

# Terms of Reference

## Kaikōura (Te Tai o Marokura) Marine Management Act 2014:

### Ministerial Review 2024

## Purpose of the terms of reference

1. This terms of reference describes the terms that the Minister of Conservation and Minister for Oceans and Fisheries (**the Ministers**) have approved for the Ministerial review required under the Kaikōura (Te Tai o Marokura) Marine Management Act 2014 (**the review**).

## Context

### Te Korowai and the Kaikōura Marine Strategy

2. The Kaikōura (Te Tai o Marokura) coastal and marine environment holds great significance historically, culturally, spiritually, environmentally, and economically due to its dynamic geography, geology, and abundance of aquatic life and resources. These attributes support highly valuable and treasured commercial, customary, and recreational fisheries, along with marine ecotourism and other non-extractive uses such as bird-watching, beach walking, kayaking, and swimming. The significance of these fisheries and non-extractive uses led to the development of the Kaikōura Marine Strategy<sup>1</sup> based around the philosophy of ‘gifts and gains’ (“where each party gifted concessions to sustain the integrity of the whole resource for the future”) to promote sustainable customary practices, protecting our treasures, fishing for abundance, and living sustainably.
3. This strategy was prepared by Te Korowai o Te Tai o Marokura (Te Korowai – the Kaikōura Coastal Marine Guardians). Te Korowai formed in 2005 as a rūnanga initiative, and led a community-based process to develop the strategy, and this in turn informed bespoke legislation for the Kaikōura coastal environment.

### Enactment of the Kaikōura (Te Tai o Marokura) Marine Management Act 2014

4. The Kaikōura (Te Tai o Marokura) Marine Management Act 2014 (**the Act**) was enacted in August 2014 to recognise the local, national, and international importance of the coast and sea around Kaikōura (Te Tai o Marokura) as a consequence of its unique coastal and marine environment and distinctive biological diversity and cultural heritage. It established the Kaikōura Marine Area (Te Whata Kai o Rakihouia i Te Tai o Marokura), (see Appendix 1), as well as introducing specific measures to support the preservation, protection, and sustainable and integrated management of this important environment (section 3 of the Act).
5. One of the measures was the establishment of an advisory committee, the Kaikōura Marine Guardians (**the Guardians**) to provide independent advice to Ministers. Further details on the role of the Guardians are provided below.

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<sup>1</sup> Te Korowai o Te Tai o Marokura/Kaikōura Coastal Marine Guardians, 2012. Kaikōura Marine Strategy: Sustaining our sea. <https://www.teamkorowai.org.nz/projects>

## The Act's requirement for a review

6. Section 8 of the Act requires a Ministerial review (by the Minister of Conservation and the Minister responsible for the administration of the Fisheries Act 1996) of the “operation and effectiveness” of six specific measures. The review must be initiated “before the expiry of 10 years after the commencement of this Act” (i.e. by 7 August 2024).
7. Before formally initiating this review, the Act requires consultation with the Guardians on a Terms of Reference (**TOR**) for the review (section 8(3)). Following engagement between the Department of Conservation and Fisheries New Zealand (**the agencies**) and the Guardians on the draft TOR, Ministers formally consulted with the Guardians to seek their feedback on the final draft of the TOR, and that feedback was incorporated by agencies as appropriate into this TOR.
8. This TOR outlines high-level principles on how the review will be conducted by setting out the objective, scope, and roles of involved parties.

## Kaikōura Marine Guardians and Iwi Interests

### *Kaikōura Marine Guardians*

9. The Guardians was established to provide independent advice to Ministers and officials on biosecurity, conservation and fisheries matters related to the Kaikōura Marine Area. Section 6(4) of the Act requires that the following interests and areas of expertise will be represented on the Guardians: Te Rūnanga o Ngāi Tahu, the Kaikōura community, biosecurity, conservation, education, environment, fishing, marine science, and tourism. The Guardians meet approximately four times per year.
10. The review will provide opportunities for input and participation from the Guardians.

### *Te Rūnanga o Ngāi Tahu*

11. Te Rūnanga o Ngāi Tahu (**TRONT**) is the tribal collective of Ngāi Tahu whānui. The Kaikōura Marine Area is within the Ngāi Tahu takiwā. Agencies will engage with the TRONT representative on the Guardians and other TRONT kaimahi as part of the review.

### *Te Rūnanga o Kaikōura*

12. Te Rūnanga o Kaikōura (**TROK**) is the representative body of the hapū Ngāti Kuri, and is one of 18 papatipu rūnanga identified under Te Runanga o Ngai Tahu Act 1996. The takiwā of TROK centres on Takahanga Marae and extends from Te Parinui o Whiti to the Hurunui River and inland to the Main Divide. The Kaikōura Marine Area is within the takiwā of Te Rūnanga o Kaikōura.
13. The review will provide opportunities for input and participation from TROK. TROK has identified the following four key principles that it wishes to guide the assessment of the ‘operation and effectiveness’ of the six measures:
  - Kaitiaki – Te whare mātauranga (The house of Knowledge)
  - Pātaka – Te whare Manaaki (The house of Caring / Sharing / Hospitality)
  - Atua – Te whare Wairua (The house of Spirituality / Customs / Practice and Cultural identify)
  - Kāwanatanga – The whare tangata (The house of the people / Treaty partner / Stakeholder).

### *Rangitāne o Wairau*

14. The southernmost coastal boundary of the Area of Interest of Rangitāne o Wairau (**Rangitāne**) is the mouth of Waiau Toa/Clarence River<sup>2</sup>. The northernmost boundary of the Kaikōura Marine Area is just north of the river mouth, at Clarence Point. This TOR acknowledges that the Area of Interest boundary of Rangitāne o Wairau is adjacent to or slightly overlaps the Kaikōura Marine Area.
15. Rangitāne wish to be kept informed of the review's progress but not otherwise involved.

## **Objective of the review**

16. The objective of the review is to assess the “operation and effectiveness” of the six measures specified in section 8(2) of the Act, those measures being established to “assist the preservation, protection, and sustainable and integrated management of the coastal and marine environment and biological diversity of Te Tai o Marokura”<sup>3</sup>. These measures are:
  - The Kaikōura Marine Guardians,
  - The Hikurangi Marine Reserve,
  - Te Rohe o Te Whānau Puha Whale Sanctuary,
  - The Ōhau New Zealand Fur Seal Sanctuary,
  - The Mangamaunu Mātaitai, Oaro Mātaitai and Te Waha o te Marangai Mātaitai, and
  - Te Taumanu o Te Waka a Māui Taiāpure and Oaro-Haumuri Taiāpure.

The period the review relates to is August 2014 to August 2024.

## **Scope of the review**

17. The following matters are in scope of the review:
  - The requirements set out in section 8 of the Act.
  - An assessment of the operation and effectiveness of those six measures specified in section 8(2) of the Act.
  - Commissioning or delivery of new research or monitoring activities for the Kaikōura Marine Area that is specifically intended to support the review. Such work will need to be approved by the agencies.
  - Agency advice to Ministers concerning the review's progress.
  - Regular updates to the Guardians on the review's progress.
  - Ongoing engagement and communication with Guardians, mana whenua (Te Rūnanga o Kaikōura), and relevant stakeholders on matters directly linked to the review or that could influence its outcomes.
  - Drafting a review report(s), including recommendations, for Ministers, on the findings of the review.

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<sup>2</sup> As described on Map 1, page 5, of the Rangitāne o Wairau Deed of Settlement Attachments Schedule. [Te Arawhiti - Rangitāne o Wairau](#)

<sup>3</sup> Part of the Act's purpose, section 3(b) of the Act.

18. The following matters are out of scope of the review:

- The day-to-day management of Guardians, including meetings and the appointment of new members.
- Business as usual engagement and communications with the Guardians, mana whenua, and relevant stakeholders regarding ongoing management of the Kaikōura Marine Area or any other regular agency operations in the region.
- Commissioning or delivery of new research or monitoring activities for the Kaikōura Marine Area that is not specifically intended to support the review. Such work will continue to be planned and undertaken as usual by the agencies.
- Implementation of any recommendations from the review that Ministers agree to. Relevant agencies will establish a separate project or work plan to implement any agreed recommendation where and if appropriate.
- Recreational fishing measures introduced as part of the Act. Instead, these measures can be reviewed as part of Fisheries New Zealand’s annual sustainability review process where appropriate.

## **Roles and responsibilities**

19. Ministers will be responsible for:

- Approving this TOR.
- Formally initiating the review by 7 August 2024.
- Providing oversight for the review.
- Approving the process for meeting the public consultation step required by section 8(4) of the Act.
- Receiving a report on the findings of the review at its conclusion.
- Presenting a report to the House of Representatives on the review.
- Making any necessary decisions as a result of recommendations arising from the review.

20. Agencies will be responsible for the following:

- Delivery of the review in accordance with section 6 below.
- Communicating with Ministers, the Guardians, TROK, stakeholders and the public about the review.
- Providing opportunities for the Guardians and TROK to engage on matters directly related to the review.
- Managing risks and issues that arise during the review.
- Commission any external expertise required to assist in the delivery of the review.
- Submit the review report to Ministers.

21. The Guardians will have the following roles:

- Providing information to agencies to inform the assessment of the operation and effectiveness of the management measures.
- Providing advice to agencies to assist with the delivery of the review.

22. TROK will have the following roles:

- Providing information to agencies to inform the assessment of the operation and effectiveness of the management measures.
- Providing advice to agencies to assist with the delivery of the review.

## Delivery

23. The review will be carried out following the steps and indicative timeframes below:

1. Identify appropriate indicators or criteria that will enable the assessment of the operation and effectiveness of the management measures. *August 2024 - January 2025*
2. Coordinate, collate, and evaluate all available and necessary information to assess the operation and effectiveness of the management measures. *August 2024 - January 2025*
3. Conduct any necessary assessment to support the evaluation of the management measures' operation and effectiveness, including those set out below. *January – April 2025*

Management Measure	Lead Agency/Agencies	Task(s)
Kaikōura Marine Guardians	Department of Conservation / Fisheries New Zealand	<p>Agencies will initially engage directly with the Guardians to discuss how they wish to provide feedback.</p> <ul style="list-style-type: none"> <li>• The assessment of the operation and effectiveness of the Guardians will include the functions set out in section 7(1)-(4) of the Act.</li> </ul>
Hikurangi Marine Reserve	Department of Conservation	<ul style="list-style-type: none"> <li>• The assessment will include how Hikurangi Marine Reserve is meeting the purpose of the Marine Reserves Act 1971.</li> </ul>
Te Rohe o Te Whānau Puha Whale Sanctuary	Department of Conservation	<ul style="list-style-type: none"> <li>• The assessment will include consideration of the operation and effectiveness of the restrictions set out in Te Rohe o Te Whānau Puha Kaikoura Whale Sanctuary (Restrictions) Notice 2014 and Te Rohe o Te Whānau Puha Kaikoura Whale Sanctuary (Restriction) Notice 2020.</li> </ul>
Ōhau New Zealand Fur Seal Sanctuary	Department of Conservation	<ul style="list-style-type: none"> <li>• The assessment will include consideration of the operation and effectiveness of the restrictions set out in the Ohau New Zealand Fur Seal Sanctuary (Restrictions) Notice 2014.</li> </ul>
Mangamaunu Mātaitai, Oaro Mātaitai and Te Waha o te Marangai Mātaitai	Fisheries New Zealand	<ul style="list-style-type: none"> <li>• Fisheries New Zealand will initially engage directly with each respective Mātaitai Committee to inform them of the review and discuss how they wish to provide feedback.</li> <li>• The three mātaitai reserves are to be treated as if they were declared under regulation 20 of the Fisheries (South Island Customary Fishing)</li> </ul>

Management Measure	Lead Agency/Agencies	Task(s)
		<p>Regulations 1999 in accordance with those regulations.</p> <ul style="list-style-type: none"> <li>• Accordingly, any assessment of the operation and effectiveness of each mātaimai reserve is to be conducted in accordance with the relevant provisions of these regulations.</li> </ul>
Te Taumanu o Te Waka a Māui Taiāpure and Oaro-Haumuri Taiāpure	Fisheries New Zealand	<ul style="list-style-type: none"> <li>• Fisheries New Zealand will initially engage directly with each respective Taiāpure Committee to inform them of the review and discuss how they wish to provide feedback.</li> <li>• The two taiāpure are to be treated as if they were declared under section 175 of the Fisheries Act 1996 in accordance with that Act.</li> <li>• Accordingly, any assessment of the operation and effectiveness of each taiāpure is to be conducted in accordance with the relevant provisions of that Act.</li> </ul>

4. Develop draft findings and recommendations, as necessary, as a result of Step 3. *May – July 2025*
5. Conduct public consultation to meet the Act’s requirements in section 8(4), ensuring interested individuals have a reasonable opportunity to provide feedback on the measures’ operation and effectiveness (see also section 7.2). *August - September 2025*
6. Prepare a review report(s) describing the method and outcomes of the assessment and views received during public consultation, including any limitations or assumptions, and provide recommendations. *October - November 2025*
7. Ministers consider the review report’s findings and recommendations and make any decisions necessary. *December 2025 – February 2026*

## Communication and engagement

### Communications with the public about the review

24. Agencies will provide the public with information about the review via the Department of Conservation’s website at the following stages:
  - At the initiation of the review.
  - Prior to public consultation to inform of the timeframe for the consultation.
  - At the start of the public consultation period.
  - At any other stage deemed necessary by the agencies.
25. This information may also be linked to on the websites of other relevant organisations, such as Te Korowai, Environment Canterbury, Kaikōura District Council and Destination Kaikōura.

## Public consultation

26. Section 8(4) of the Act requires that “Ministers must ensure that, as part of the review, there is reasonable opportunity for interested persons to make submissions on the operation and effectiveness of the measures”.
27. Agencies anticipate consulting on a draft report (as under step 5 above) detailing their assessment of the ‘operation and effectiveness’ of the measures and any associated recommendations. Public feedback received would then be incorporated into the draft report as appropriate. This consultation process will be determined after the review has been initiated. Subject to approval by Ministers, it is expected to include, at a minimum:
  - Notification of the consultation process on the Department of Conservation’s and Ministry for Primary Industries’ websites, as well as be publicised in the Kaikōura Star and Te Korowai and Destination Kaikōura websites.
  - Direct email notification of the consultation to a key stakeholder/interested parties list developed by agencies and the Guardians.
  - A 6-week period in which the public can provide a submission.
  - Use of a submission response form which directs the public to provide feedback on specified questions and also to provide any general feedback.

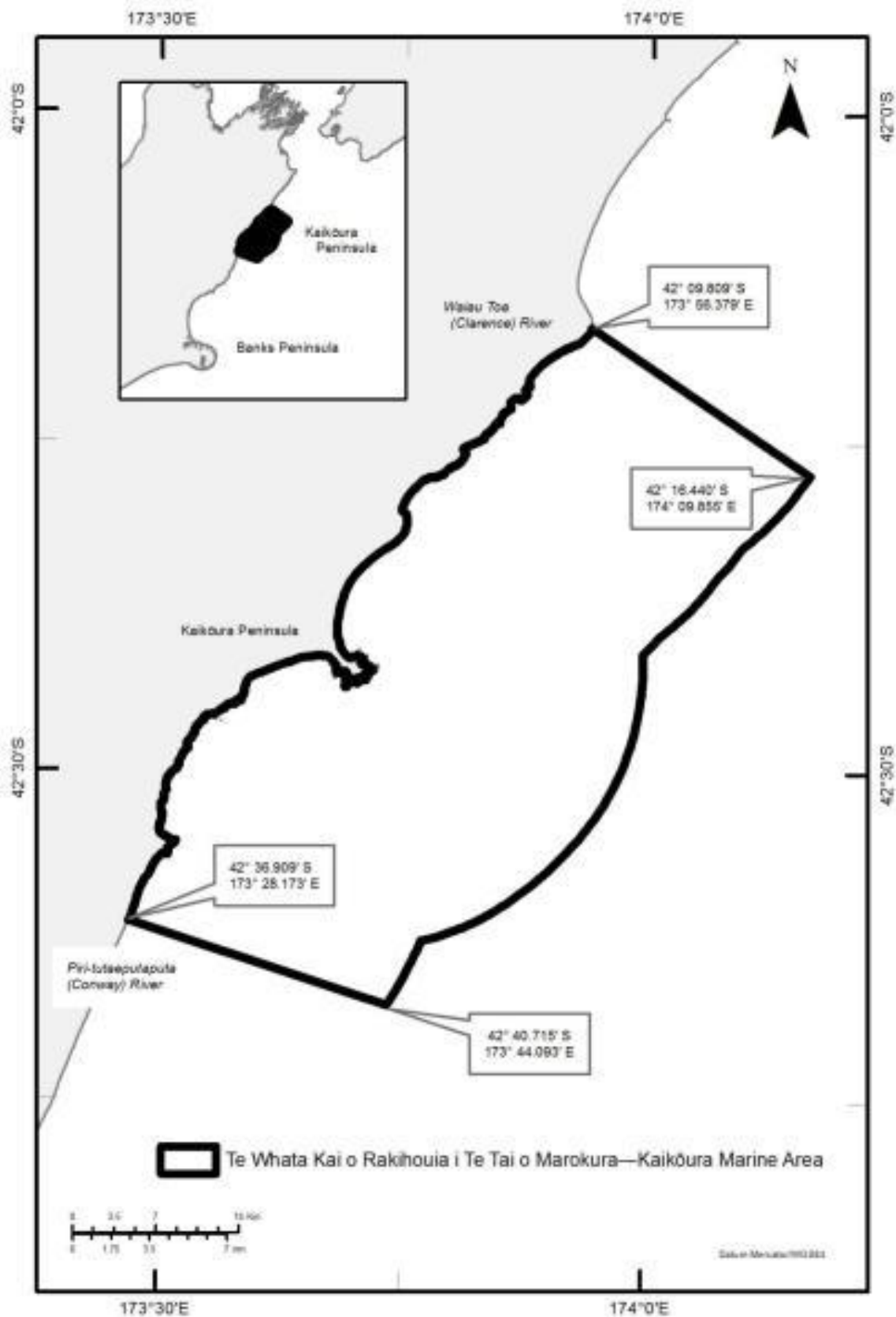
## Changes to this Terms of Reference

28. Any changes sought to this TOR that are more than minor in nature will require the approval of the Ministers of Conservation and Oceans and Fisheries.
29. Changes that are minor in nature may be made by agreement between responsible senior managers from the agencies (Department of Conservation Director, Regulatory Systems and Performance and Fisheries New Zealand Director, Fisheries Management) or their delegates.
30. The determination of whether a change is minor or more than minor will be made by the same responsible senior managers from the agencies.

## Version Control

Version	Status	Date	Comments
V1.0	Final Draft	12 July 2024	For Ministers to consult with the Kaikōura Marine Guardians
V1.1	Revised Draft	27 July 2024	Small amendment made in response to Kaikōura Marine Guardians feedback, and updates to formatting

Appendix 1: Map of Te Whata Kai o Rākihōia i Te Tai o Marokura—Kaikōura Marine Area



Map of Te Whata Kai o Rākihōia i Te Tai o Marokura—Kaikōura Marine Area