
Operational Procedures for BPAs and Seamount Closures

1 October 2007

Version 2

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Disclaimer: *These Operational Procedures are designed to define industry agreed management rules and are to be used in conjunction with any Fisheries or other Government Regulations, they do not replace or override any Regulations currently in place. These OPs do not intend to list all such Regulations and it is the duty of the operator to know and understand these said Regulations.*

PART 1: INTRODUCTION

Benthic Protection Areas

There has been significant public concern about the possible adverse effects that bottom trawling may have on the seabed.

Benthic Protection Areas (BPAs) have been established to contribute to managing these effects.

BPAs set up multiple-use management of the NZ EEZ:

- Areas set aside to conserve benthic ecosystems
 - Areas open to fishing for sustainable food production
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Purpose

Given the concern about the effects that bottom trawling, the BPAs will set aside largely unmodified areas of seabed that are broadly representative of the benthic environment within the EEZ. Within those areas, bottom trawling and dredging will be prohibited and any form of mid water trawling will be tightly controlled and monitored to ensure that it does not impact on the benthic environment. Fishing by other methods will not be affected. This includes other static fishing gear that may come into contact with the seabed, such as potting or long lining.

BPAs have been selected to broadly represent the variety of benthic habitats in the New Zealand and as areas that have had no, or very little, trawling.

BPAs do not involve closing areas that have already been modified through the effects of bottom trawling. This is similar to the way we use land. Where land is used for food production, we accept that modification of the environment is necessary and will occur. Equally, we set aside other land and protect it as part of the conservation estate.

PART 2: CHANGES TO SEAMOUNT CLOSURES

Proposals to Change Seamount Closures

Since the implementation of the seamount closures,¹ bathymetric data and further analyses indicate that some of the original seamount closures were not located to provide optimal protection to the underlying feature(s).

As a separate, but related process, the boundaries of five of the seamount closures will be altered.

Trawling Prohibited

Commercial Fisheries Regulations 1986 stipulates within the seamount closures all trawling is prohibited. This will remain unchanged. In contrast, limited trawling will be allowed within BPAs under specific circumstances; these are outlined below.

Timing of Introduction

The Regulations will be amended to reflect revised boundaries at the same time as the BPAs will be established. This should be within the 2007-08 Fishing Year.

Request for Restraint Meantime

Until such time as the new Regulations come into force, it is requested that all vessels refrain from trawling within the areas that will be closed by the modified seamount boundaries.

Access to Digital Updates

Digital updates for Seaplot Pro are now available from Seabed Mapping in Nelson.

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¹ Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986
Fisheries (Central Area Commercial Fishing) Regulations 1986
Fisheries (South-East Area Commercial Fishing) Regulations 1986
Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986

PART 2: CHANGES TO SEAMOUNT CLOSURES, CONTINUED

New Areas

Trawling is prohibited around selected seamounts under 'Fisheries (Commercial Fishing) Regulations 1986, reg. 47B', and some of these areas have been revised.

The new areas will come into effect in November 2007. The revised boundaries are given below and closed areas are illustrated on the next page.

Fisheries Management Area 1 (Auckland (East))

- i) 31°50' - 32°08' S, 174°05' - 174°30' E Seamount #148
- ii) 33°55' - 34°20' S, 173°50' - 174°15' E Cavalli

Fisheries Management Area 9 (Auckland (West))

- iii) 31°35' - 32°00' S, 170°45' - 171°10' E Seamount #140
- iv) 37°20' - 37°45' S, 171°50' - 172°35' E Aotea
- v) 36°51' - 37°08' S, 170°33' - 170°46' E Telecom
- vi) 34°44' - 34°54' S, 169°12' - 169°30' E Seamount #447

Fisheries Management Area 2 (Central (East))

- vii) 34°45' - 34°56' S, 179°00' - 179°10' E Brothers
- viii) 35°35' - 35°55' S, 178°20' - 178°40' E Rumble III

Fisheries Management Area 3 (South-East (Coast))

- ix) 44°31' - 44°33', 175°40' - 175°44' E Pinnie

Fisheries Management Area 4 (South-East (Chatham Rise))

- x) 42°42' - 42°44' S, 179°56' - 179°59' W Morgue
- xi) 42°42' - 42°45' S, 179°51' - 179°55' W Pyre and Gothic
- xii) 44°07' - 44°11' S, 174°39' - 174°48' W Diamond Head
- xiii) 44°33' - 44°56' S, 173°57' - 174°25' W Seamount #328

Fisheries Management Area 5 (Southland)

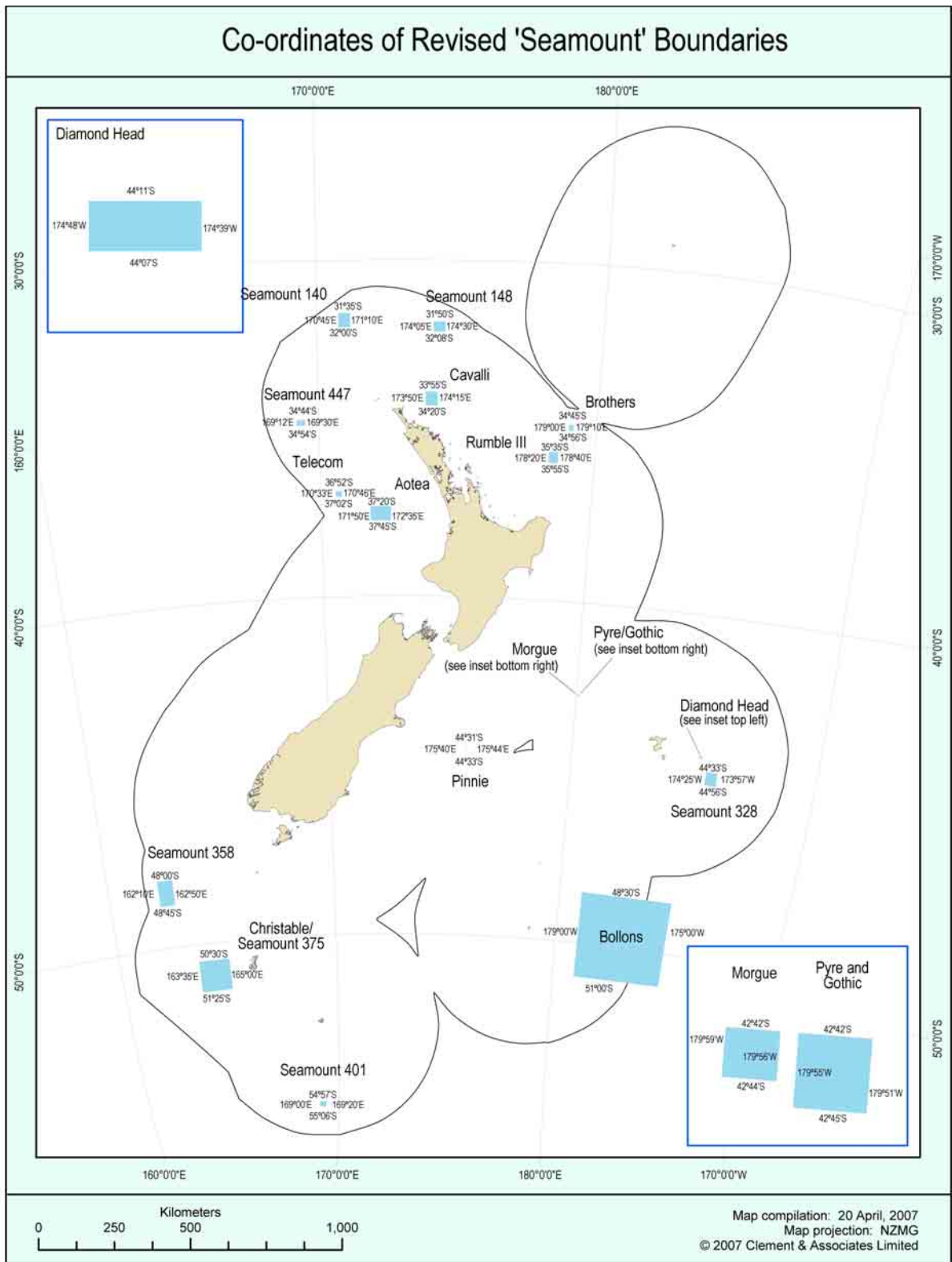
- xiv) 48°00' - 48°45' S, 162°10' - 162°50' E Seamount #358

Fisheries Management Area 6 (Sub-Antarctic)

- xv) 48°30' - 51°00' S, 175°00' - 179°00' W Bollons
- xvi) 50°30' - 51°25' S, 163°35' - 165°00' E Seamount #375/Christable
- xvii) 54°57' - 55°06' S, 169°00' - 169°20' E Seamount #401

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PART 2: CHANGES TO SEAMOUNT CLOSURES, CONTINUED



PART 3: INTRODUCTION OF NEW BENTHIC PROTECTION AREAS (BPAs)

What are BPAs Benthic Protection Areas are areas of the seabed that will be set aside to ensure that no bottom trawling and dredging activities will impact on the seabed.

Where are BPAs BPAs are spread geographically throughout New Zealand waters, but are located primarily in the EEZ. BPAs have been selected to minimise the impact of the area closures on current fishing activities.

Detailed descriptions of the locations of all BPAs appear in Appendix 1. A map showing their positions on page 10.

Note Additional Areas to Original Proposal During the latter stages of the development of Benthic Protection Areas, Three additional closures were suggested by Industry, these are:

1. Puysegur – the South West of South Island
2. Blink – in the South East Chatham Rise
3. Tectonic Reach – the Southern portion of Kermadec Rise

A description of the locations of these additional BPAs appears in Appendix 1 and in the map on page 10.

Conditions of Entry The BPA Regulations will prohibit dredging and limit the operation of trawling as outlined in the attached Trawling Protocol. The purpose of the Trawling Protocol is to ensure that any midwater trawling does not impact on the seabed. The main points of the Trawling Protocol are as follows:

- A buffer zone will be established in every BPA; it will be an offence to trawl within 100m of the seabed.
- When trawling in any BPA two observers must be present onboard.
- Electronic net monitoring will be required to monitor whether gear has impacted on the seabed or breached the buffer zone. The electronic net monitoring must record:
 - The depth of the ground rope, head rope and seabed while trawling
 - The date and time of trawling
 - The latitude and longitude of the vessel while trawl gear is in the water
- These data must be collected, stored and retained in a secure format and be available to Fishery Officers and Observers in real time and for a period of 24 months following the fishing operation.
- The Trawling Protocol also details offences and penalties; these include fines up to \$100,000 and the presumption of vessel forfeiture.

The Trawling Protocol will be established by Regulation, a description is attached as Appendix 2.

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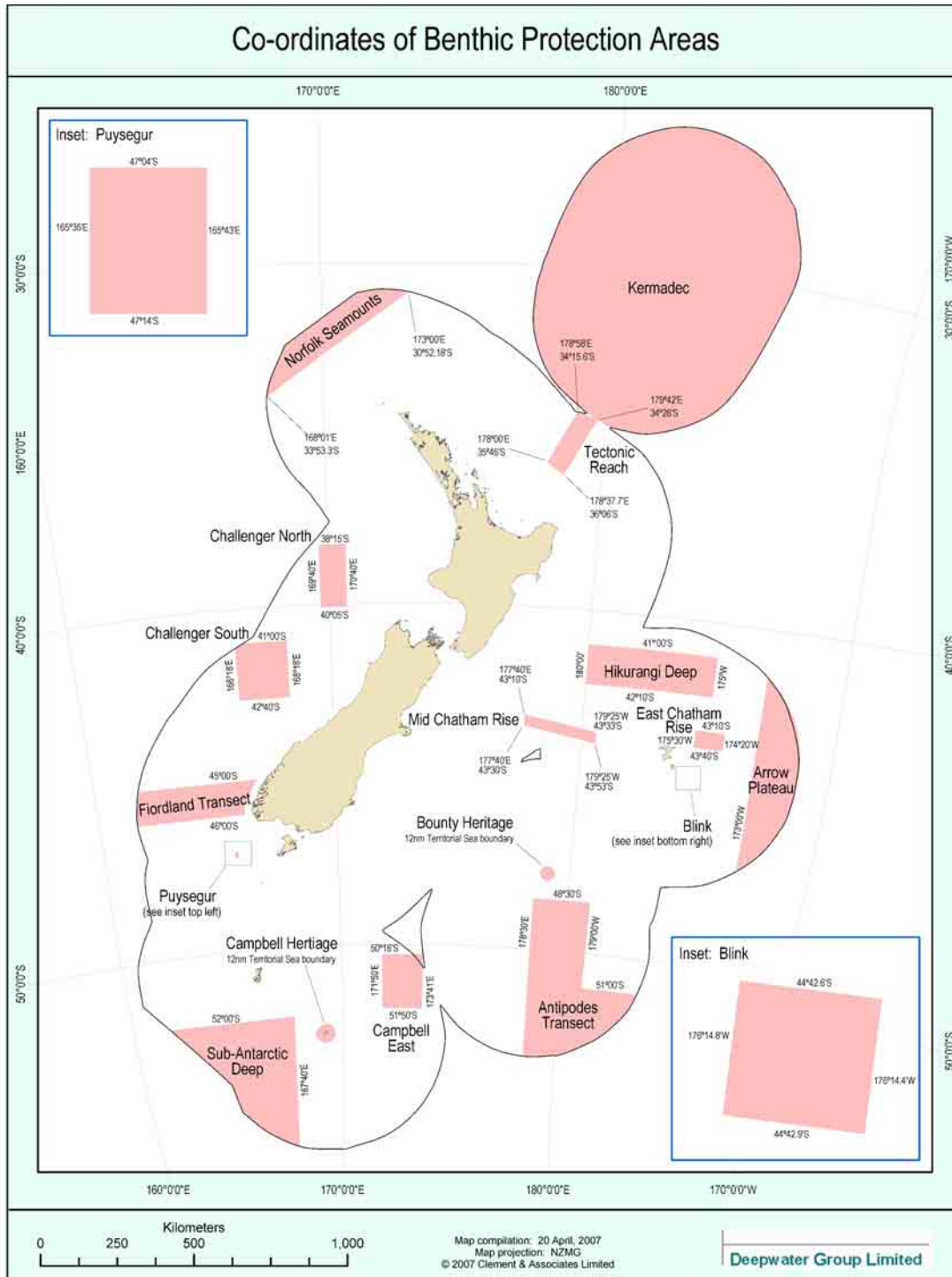
PART 3: INTRODUCTION OF NEW BENTHIC PROTECTION AREAS (BPAs), CONTINUED

Request for Restraint Meantime

Until such time as the new Regulations come into force, it is requested that all vessels refrain from bottom trawling or dredging within the BPAs. If midwater trawling, ensure you have an approved observer onboard.

Access to Digital Maps

Digital updates for Seaplot Pro are now available from Seabed Mapping in Nelson.



APPENDIX 1: BOUNDARIES OF BENTHIC PROTECTION AREAS (WGS84 PROJECTION)

Kermadec	An area commencing at the easternmost point of the New Zealand EEZ boundary nearest 34°22.1'S and 179°29.6'E; then heading in generally north-westerly, northerly, easterly, and southerly directions along the New Zealand EEZ boundary to the westernmost point of the New Zealand EEZ boundary nearest 34°34.2'S and 179°51.2'W; then proceeding in a generally westerly direction directly to the point of commencement.
Norfolk Deep	An area commencing at 173°00'E and 30°52.18'S on the eastern New Zealand EEZ boundary; then heading in a south-westerly direction directly to the point on the western New Zealand EEZ boundary at 168°01'E and 33°53.3'S; then heading in a generally north-easterly direction along the northern boundary of the New Zealand EEZ to the point of commencement.
Challenger North	A box covering the area between 169°40'E and 170°40'E, and 38°15'S and 40°05'S.
Challenger South	An area commencing at the point 168°18'E and 41°00'S; then heading south along the 168°18'E line of longitude to the point at 168°18'E and 42°40'S; then heading west along the 42°40'S line of latitude to the point at 166°18'E and 42°40'S; then heading north along the 166°18'E line of longitude to the intersection with the New Zealand EEZ boundary at 41°07.9'S; then following the New Zealand EEZ boundary in a generally north-easterly direction to the intersection with the 41°00'S line of latitude at 166°37.5'S; then heading east along the 41°00'S line of latitude back to the point of commencement.
Hikurangi Deep	A box covering the area between 180°00' and 175°00'W, and 41°00'S and 42°10'S.
Mid Chatham Rise	A box covering the area commencing at the point 177°40'E and 43°10'S; then heading in a generally easterly direction directly to the point at 179°25'W and 43°33'S; then heading in a southerly direction directly to the point at 179°25'W and 43°53'S; then heading in a generally westerly direction directly to the point at 177°40'E and 43°30'S; then heading in a northerly direction directly to the point of commencement.
East Chatham Rise	A box covering the area commencing at the point 175°30'W and 43°10'S; then heading in a generally easterly direction directly to the point at 174°20'W and 43°10'S; then heading directly south to the point at 174°20'W and 43°40'S; then heading in a generally westerly direction directly to the point at 175°30'W and 43°40'S; then heading directly north to the point of commencement.
Arrow Plateau	An area commencing at the intersection of the 173°00'W line of longitude with the eastern New Zealand EEZ boundary at 41°21.36'S; then heading in generally south-easterly, southerly and south-westerly directions along the New Zealand EEZ boundary back to the intersection with the 173°00'W line of longitude; then heading north along the 173°00'W line of longitude to the point of commencement.

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APPENDIX 1: BOUNDARIES OF BENTHIC PROTECTION AREAS (WGS84 PROJECTION), CONTINUED

Fiordland Transect	An area commencing at the intersection of the 45°00'S line of latitude and the seaward boundary of the Territorial Sea at approximately 166°45.8'E; then travelling in a generally southerly direction along the Territorial Sea boundary to the intersection of the 46°00'S line of latitude at approximately 166°09.5'E; then heading west along the 46°00'S line of latitude to the intersection with the New Zealand EEZ boundary; then following the New Zealand EEZ boundary in a generally northerly direction to the intersection with the 45°00'S line of latitude; then heading east along the 45°00'S line of latitude until meeting the seaward boundary of the Territorial Sea at the point of commencement.
Campbell East	A box covering the area between 171°50'E and 173°41'E, and 50°16'S and 51°50'S.
Antipodes Transect	An area commencing at the point 178°30'E and 48°30'S; then heading east along the 48°30'S line of latitude to the point at 179°00'W and 48°30'S; then heading south along the 179°00'W line of longitude to the point at 179°00'W and 51°00'S; then heading east along the 51°00'S line of latitude until the intersection with the New Zealand EEZ boundary; then following the New Zealand EEZ boundary in a generally south-westerly direction until the intersection with the 178°30'E line of longitude; then heading north along the 178°30'E line of longitude to the point of commencement.
Bounties Heritage	An area covering the existing 12nm Territorial Sea limit around the Bounty Islands.
Campbell Heritage	An area covering the existing 12nm Territorial Sea limit around Campbell Island.
Sub-Antarctic Deep	An area commencing at the point 167°40'E and 52°00'S; then heading south along the 167°40'E line of longitude to the intersection with the New Zealand EEZ boundary; then heading in a generally north-westerly direction along the New Zealand EEZ boundary until reaching the intersection with the 52°00'S line of latitude; then heading east along the 52°00'S line of latitude back to the point of commencement.
Blink	A box covering the area between 176°14.83'W and 176°14.42'W, and 44°42.63'S and 44°42.92'S.
Puysegur	A box covering the area between 165°35'E and 165°43'E, and 47°04'S and 47°14'S.
Tectonic Reach	A box covering the area commencing at the point 178°58'E and 34°15.6'S; then heading in a generally easterly direction along the New Zealand EEZ boundary to the point at 179°42'E and 34°26'S; then heading in a generally south-east direction directly to the point at 178°37.7'E and 36°06'S; then heading in a generally north-west direction directly to the point at 178°00'E and 35°46'S; then heading in a generally north-east direction directly to the point of commencement.

APPENDIX 2: THE MIDWATER TRAWLING PROTOCOL

Purpose The purpose of this paper is to outline a protocol that will guide the use of trawl gear within Benthic Protection Areas (BPAs) aimed at ensuring that trawl gear does not impact² on the benthic environment.

- The Principles**
- The overall intent of the BPAs is to prevent any trawl gear or dredge gear impacting the benthic environment. Regulations should establish a prohibition on dredging and restrictions on trawling within a BPA.
 - Within BPAs all dredging is to be prohibited. Trawling will only be allowed within a BPA where regulatory criteria aimed at preventing trawl gear impacting on the benthic environment are complied with. Vessels will therefore need to meet minimum monitoring requirements before trawling within a BPA can occur. Other methods of fishing such as Danish seining, long-lining or potting will not be affected by the Proposal.
 - Any such trawling within BPAs is to be actively managed and monitored. Strict requirements and monitoring obligations will apply to the Captain and operator of any vessel using trawl gear within a BPA.
 - To provide further certainty that trawl gear does not make contact with the benthic environment in a BPA, a buffer zone will be established in every BPA.
 - The upper boundary of the buffer zone will be at a height of 100 m above the seabed; the lower boundary of the buffer zone will be at a height of 50 m above the seabed and will be deemed to be the seabed for compliance purposes under the Trawling Protocol.
 - Should trawl gear pass below the top of the buffer zone so as to come within 100 m of the seabed it will constitute a low tier offence. Should trawl gear pass below the bottom of the buffer zone so as to come within 50 m of the seabed it will be deemed to have impacted on the seabed and will constitute a serious offence that could result in a fine up to \$100,000 and automatic forfeiture of the vessel. A full list of offences and penalties is outlined below.
 - The limits that define buffers zones may be varied over time as technology changes and information improves.
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- Technical Requirements**
- The Chief Executive of the Ministry of Fisheries will be empowered (by using Circulars as contemplated by section 304 of the Fisheries Act 1996) to set the technical requirements on the monitoring of trawling within a BPA. These requirements must be complied with by any vessel Captain and operator before and while using any trawl gear in a BPA.
 - Any technical requirements set as part of this protocol must be actively implemented and monitored and able to be audited by the Ministry of Fisheries.
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² 'Impact' in relation to the benthic environment for the purpose of this protocol means physical contact of trawl or dredge gear with the benthic environment; 'benthic environment' means the seabed and any plant, structure or animal physically attached to the seabed.

APPENDIX 2: THE MIDWATER TRAWLING PROTOCOL, CONTINUED

Monitoring

- Any vessel wishing to use any trawl gear in a BPA shall notify the Ministry of Fisheries (Fisheries Communication Centre) and the observers on board the vessel before commencing trawling.³
- Monitoring will consist of the use of vessel monitoring systems (VMS), Ministry-approved observers and compulsory use of an electronic net monitoring system (ENMS). The Ministry will initially require 100% observer coverage of vessels fishing within a BPA. It may be possible to review 100% observer coverage over time depending on the effectiveness of electronic monitoring.
- To ensure that observers and Fishery Officers can monitor vessel's activities within a BPA any vessel intending to use trawl gear in a BPA must use an approved VMS device.⁴
- Vessels trawling within BPAs must carry two observers approved by the Ministry. If an observer is not available when required by the Ministry, no form of trawling will occur in any BPA. Observers will monitor whether dredge gear is deployed and ensure any inadvertent contact with the benthic environment by any trawl gear is observed and reported. Observers will also observe and report on any transgression of the buffer zone.
- The Captain and operator of any vessel operating in a BPA whose trawl gear inadvertently transgresses a buffer zone or touches the benthic environment will be required to notify the Ministry of Fisheries as soon as practicable after the event. It is anticipated that, over time, systems that automatically trigger a signal to the Ministry will be developed and required to be used by vessels trawling in a BPA.
- When transiting a BPA, but not fishing, the Captain and operator must ensure that any trawl or dredge gear remains onboard the vessel.
- To ensure that observers and Fishery Officers can monitor a vessel's activities within a BPA, any vessel intending to use trawl gear in a BPA must ensure the vessel has:
 - An ENMS⁵ which records continuously:
 - The depth of the ground rope, head rope and seabed whilst trawling; and
 - The date and time of trawling; and
 - The latitude and longitude of the vessel while the trawl gear is in the water.
 - The capacity for observers or Fishery Officers to access data and information recorded by the ENMS and the capacity for Fishery Officers to take that information or data off the vessel.⁶
 - The capacity for ENMS records to be available for inspection by Fishery Officers for a period to be specified up to two years.
- Regulations would empower the Chief Executive to approve suitable standards that allow monitoring of the net suitable capacity to meet the data requirements described above. A vessel would only be able to use trawl gear in a BPA if the accompanying systems were approved by the Chief Executive. The Ministry undertakes this activity in a limited way already when approving VMS equipment.
- Industry will be required to pay for the cost of all monitoring and auditing required under this protocol. It is expected that, as much as possible, these costs will be recovered by transaction charges rather than through cost recovery levies.

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³ This notification will be consistent with current Fisheries Communication Centre position reporting obligations imposed on most deepwater vessels.

⁴ The use of VMS is currently limited to vessels over 28m in length or vessels fishing in specified fisheries (e.g. scampi). The requirement to use VMS when using trawl gear in a BPA may require vessels to acquire VMS equipment.

⁵ Data required to monitor trawling activity within a BPA may come from multiple systems on board a fishing vessel not solely from an ENMS.

⁶ This will enable Fishery Officers to investigate after the event (and onshore) whether an offence has occurred.

APPENDIX 2: THE MIDWATER TRAWLING PROTOCOL, CONTINUED

Offences, Penalties and Defences

Offences

A proposed list of regulatory offences is given below:

Serious

- Any person using dredge gear inside a BPA
- Failure to supply or allow access to data from an ENMS on request of a Fishery Officer or Ministry-approved Observer
- Trawling in a BPA when an approved ENMS is faulty or not operating correctly (including storing data)
- Any person impacting the benthic environment by trawl gear
- Any person using trawl gear inside a BPA without the use of:
 - An approved VMS system; or
 - Two Ministry-approved observers on board the vessel; or
 - An ENMS that complies with the approved standards
- Any person committing any low-tier offence on more than two different occasions within a 3 year period
- Any person tampering with or discarding evidence of any offence under the Trawling Protocol
- Any person who uses a trawl net below the specified buffer zone

Low tier

- Failure to meet any technical specifications defined by the Chief Executive in a Circular when trawling in a BPA
- Failure to notify entry into a BPA when intending to undertake trawling activity
- When transiting a BPA failing to ensure that trawl or dredge gear remains onboard the vessel
- Failure to notify the Ministry's Fisheries Communications Centre before trawling in a BPA
- Use of a trawl net within a specified buffer zone

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APPENDIX 2: THE MIDWATER TRAWLING PROTOCOL, CONTINUED

- Penalty regime**
- The penalties are commensurate with the proposed list of offences and reflect the degree to which the Ministry of Fisheries believes any one breach of the Trawling Protocol would undermine the integrity and purpose of the BPAs. These offences can be categorised as single or repeat offences.
 - Based on current Cabinet guidelines, there are two primary penalties that could be sought for the above offences. The first is a maximum fine of \$100,000 and the presumption of automatic forfeiture of the vessel unless the court orders otherwise. The second is a maximum fine of \$20,000 and the discretion for the court to order forfeiture of the vessel.
 - The serious offences described above will attract serious penalties (a fine of up to \$100,000 and the presumption of automatic forfeiture of the vessel unless the Court orders otherwise). Low tier offences described above are of a less serious nature and will attract a fine of up to \$20,000.
 - Both industry and Officials agree that breaches of offences designed to deter fishing impact on the benthic environment should be treated seriously and should attract penalties of up to \$100,000 and the presumption of automatic forfeiture of the vessel unless the court orders otherwise.
 - Equally Industry and Officials agree that technical offences (e.g. breach of a chief executive specification outlined in a Circular) should attract a penalty of up to \$20,000.
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- Defences**
- A defence will be available under s 241 of the Fisheries Act 1996 against any prosecution for an offence under these regulations. This applies where all reasonable precautions were taken and due diligence was exercised. For example, such a defence may be available where there is an unforeseeable significant failure of gear or vessel malfunction.
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