

NEW ZEALAND

**CONSERVATION AUTHORITY**  
TE POU ATAWHAI TAIAO O AOTEAROA

## Your Comment on the Bream Bay Sand Mining application by McCallum Brothers Ltd

Please include all the contact details listed below with your comments and indicate whether you can receive further communications from us by email.

<b>1. Contact Details</b>	
Please ensure that you have authority to comment on the application on behalf of those named on this form.	
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<b>2. We will email you draft conditions of consent for your comment</b>	
<input checked="" type="checkbox"/> I can receive emails and my email address is correct	<input type="checkbox"/> I cannot receive emails and my postal address is correct

**Thank you for your comments**

# New Zealand Conservation Authority – Comments under the Fast-track Approvals Act 2024

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## Bream Bay Sand Extraction application

### 1. Introduction

The New Zealand Conservation Authority (NZCA) acknowledges and appreciates the opportunity given by the Expert Consenting Panel (Panel) to comment on the Bream Bay Sand Extraction application of McCallum Brothers Ltd. The NZCA offers these comments in line with its statutory role as an independent body established under the Conservation Act 1987. The Authority's responsibilities include advising on matters of national conservation importance, overseeing the development and implementation of conservation strategies and plans, and ensuring the management of natural and cultural resources aligns with the principles of the Treaty of Waitangi.

These comments are based on the application, and material required under section 18 of the FTAA, which identifies relevant iwi authorities, Treaty settlement entities, and MACA applicants, as well as the Crown's statutory obligations in relation to existing Treaty settlements and customary rights.

The NZCA's views also take into account the Director-General of Conservation's technical advice prepared under sections 51 of the FTAA, in particular in relation to wildlife, particularly corals. NZCA also considers responsibilities and the need for compliance with the Marine Mammal Protection Act 1978, and the Marine Mammal Protection Regulations 1992, and as requested

by the Panel Convenor, advice on how the weighting of matters set out in Schedule 7, clause 3 of the Act should be approached, having regard to relevant senior court decisions.

As noted (Appendix C), while the purpose of the FTAA is to be given the greatest weight, “the purpose of the FTAA does not automatically outweigh all other considerations” “...in combination or in isolation, such as the adverse environmental effects of a project.”

The NZCA offers a national conservation perspective to help the Panel ensure the application is assessed in a way that protects the environment, statutes, and mana whenua rights. While there are economic benefits that will result for the applicant, projects submitted under the FTAA must not compromise Aotearoa’s conservation duties or the Crown’s responsibilities under Te Tiriti o Waitangi.

## **2. Application Summary Relevant to NZCA Functions**

The McCallum Brothers have applied to extract (using a motorised trailing suction dredge) up to 150,000 cubic meters of sand per annum for an initial period of 3 years, and up to 250,000 cubic meters per annum thereafter. The area includes a 17 square kilometre area of seabed in the marine and coastal area of Te Ākau Bream Bay, Northland.

The application states that “*Monitoring for the previous three years has not identified an ecologically significant statistical adverse change in the benthic biota assemblage, composition, and abundance relative to changes which cannot be explained by natural processes (having regard to the northern, southern and remote-control sites)*”. The application further notes the two cup coral species known to be present, potentially numbering in the millions, have not been assessed by the NZ Threat Classification System, and therefore are not deemed to the ‘Threatened, Data Deficient or At Risk’ wildlife (NZCA disagree with this assessment as outlined below).

The proposal also engages the Conservation Act 1987, particularly section 4, which requires that all conservation decisions give effect to the principles of the Treaty of Waitangi.

In this submission NZCA wishes to raise a number of specific concerns in relation to:

- The impacts of the proposed activities on protected and threatened wildlife and marine species.

These matters fall within the NZCA's statutory functions to:

- Provide oversight of conservation and wildlife management
- Ensure consistency with DOC's statutory responsibilities and best practice standards
- Uphold Treaty principles in conservation-related decision-making; and
- Advise on matters of national conservation importance, including protecting taonga species and the integrity of coastal and marine and freshwater ecosystems.

### **3. Assessment Against the Conservation Management Framework**

The NZCA has evaluated this proposal against its statutory conservation oversight role, including under the following legislation:

- Conservation Act 1987
- Wildlife Act 1953
- National Parks Act 1980
- Reserves Act 1977
- Marine Reserves Act 1971
- Resource Management Act 1991 (and relevant national direction)

The proposal is also assessed against:

- General Policy for Conservation (2005)
- General Policy for National Parks (2005)
- Relevant regional Conservation Management Strategies (CMSs) or Plans
- Current Department of Conservation (DOC) operational standards and guidelines.

### **4. Comments**

#### **Assessment of impacts**

The activities of the sand mining will have a number of impacts:

## **Noise**

There will be significant noise associated with the activities proposed from the vessel as well as from machinery (winches, generators, etc), and the dredge operations. In recent decades the impacts of marine noise – a type of pollution that was once overlooked – are now being documented across all types of marine ecosystems. Underwater noise can cause physical injury, and trigger stress responses, as well as displace marine wildlife from critical breeding and feeding habitats. For marine mammals if they are too close to the source of noise they may panic and either ascend or descend too rapidly resulting in tissue damage from lesions caused by gas bubbles. Noise pollution can interfere with the detection of acoustic signals in the marine environment, a critical means of communication for marine mammals. Marine noise also influences the settlement patterns of marine invertebrate larvae, disrupting recruitment. There are certainly additional impacts of marine noise about which little is currently known.

The applicant states *“MBL will actively seek to make improvements to equipment and increase operational efficiency over the consent term to: reduce overall underwater noise outputs; and reduce the daily dredging duration.”* The proposed constant operation of equipment and vessels will generate significant marine noise in an area that has very high diversity of species likely to be particularly negatively affected by the noise – namely marine mammals and seabirds. The cumulative impacts of this are likely to be significant – and result in an altered marine soundscape.

While monitoring of this soundscape is proposed, NZCA is not convinced that the “adaptive management” options identified really address the issue of inappropriate and continuing sound pollution. If the activities of sand mining are approved, there need to be very clear penalties – including withdrawing permit permission - if acoustic monitoring reveals that the sand extraction soundscape is damaging to marine mammals and other marine life.

## **Turbidity and Sedimentary Changes**

The sand mining operations and the sediment plumes that will be created will result in reduced light penetration and loss of primary productivity – photosynthesis by phytoplankton and microphytobenthos will be severely impacted. These primary producers form the baseline of the marine food web and are key to the growth and productivity of the invertebrate benthic

communities and in turn to foraging fish species and birds. In addition, the loss of this productivity will affect not only carbon capture but also the production of oxygen in the water column.

The sand mining will result in changes to the sea floor – increased sedimentation, reduction in substrate grain size – leading to muddier habitats and loss of coarse grain habitat preferred by species currently occupying the benthos.

Increased sedimentation will block the gills of filter feeding organisms (e.g. scallops), hindering their capacity to feed. There will be reduced oxygen in the water column from reduced photosynthesis, with impacts on the respiration of all marine life.

### **Alteration of seafloor bathymetry and Habitat fragmentation**

Dredging operations will create large trenches (as evidenced at Pakiri), leaving the area unstable and limiting or preventing the re-establishment of biogenic habitats.

Fragmentation of habitats is an inevitable outcome of sustained dredging activities – and this in return influences the connectivity of populations and capacity for resilience of key species within the benthic invertebrate communities.

### **Coastal Erosion**

Removing sand from coastal areas can exacerbate erosion. Beaches, dunes, and coastal barriers play a critical role in protecting inland areas from storm surges and rising sea levels. Sand mining weakens these natural defences.

### **Vulnerability of protected wildlife.**

#### **Corals**

It is undisputed that the proposed activity will cause mortality and damage to two protected coral species, *Sphenotrochus ralphae* and *Kionotrochus suteri*.

As both corals are members of the Order Scleractinia, they are **absolutely protected species** by virtue of their inclusion in Schedule 7 of the Wildlife Act 1953, making it an offence to inter alia hunt, kill, or possess them without appropriate authority. Stony corals are extremely fragile and slow growing, and as calcified species highly vulnerable to ocean acidification and climate change impacts.

The corals will be damaged by the proposed activities as a direct result of the dredging and sieving the sand that will disturb corals on the seabed, and also indirect damage resulting from seabed disturbance including changes in sediment profiles, and the sediment plumes that may smother the coral.

The applicant (via Bioreserches) has expressed the view that cup corals do not add any ecological value to the site. NZCA disagrees with this opinion and supports the analysis reflected in Appendix-B-Technical-report-s51-on-Bream-Bay-corals. As noted in this Appendix. *Sphenotrochus ralphae* and *Kionotrochus suteri* potentially play important roles as components of the infaunal seabed community and seabed structure, in carbon cycling, and influence local sediment flow, as well as provision of microhabitats for species involved in nutrient cycling. NZCA also does not accept the comparison of anemones with cup corals in terms of ecosystem services that these groups respectively provide in the benthos.

As noted in Appendix-B-Technical-report-s51-on-Bream-Bay-corals, *“understanding the likely extent and timeframes of coral survivorship and recovery from the proposed activity are key to assessing the impacts for the Wildlife Act authorisation applied for, and are key to understanding the adequacy of mitigation measures as proposed in the conditions and Cup Coral Management Plan.”*

NZCA shares the concerns expressed in Appendix-B-Technical-report-s51-on-Bream-Bay-corals about the adequacy of the CCMP specifically with respect to *“methodology and processes to minimise the disturbance, possession and incidental killing of cup corals”* - both during extraction activities and in monitoring activities. NZCA also endorses the statement *“The CCMP does not identify any consequences or management actions triggered by monitoring outcomes, which obviates its purpose.”*

### **Marine Mammals**

In a systematic study of marine megafauna in the wider Te Ākau Bream Bay area coupled with a stocktake of Māori knowledge, Brough et al. (2025) have shown that the area provides critical habitat for marine megafauna, including a range of threatened and at-risk species (Baker et al. 2019; Robertson et al. 2021). They state: *“Few coastal areas in New Zealand hold such high*

*diversity of marine mammals, sharks/ rays and seabirds—with the nearby Hauraki Gulf being one of the few comparable locations.”*

All marine mammals in New Zealand waters are fully protected under the Marine Mammals Protection Act 1978 which is administered by the Department of Conservation (DOC). The Marine Mammal Protection Regulations 1992 outline the behaviours that must be adhered to by all persons around marine mammals. Compliance with these regulations is a legal requirement. Sections 18, 19 and 20 of the regulations outline the behaviours that must be adhered to by all persons around marine mammals, particularly relevant to reducing collisions between marine mammals and vessels. The applicant has said that they will comply with the voluntary Hauraki Gulf Transit Protocol during all transit to and from the extraction area.

NZCA concerns are focused on the potential for behavioural changes and negative impacts as a consequence of the sand mining (both from single, sustained stressors and the cumulative impacts of multiple stressors), on species that are associated with Te Ākau Bream Bay.

### **Seabirds and shorebirds**

Seabird surveys of Brough et al. (2024) have provided the first information on the occurrence and distribution of key species within the wider Te Ākau Bream Bay area. The richness and diversity of species shows that this region is “an important location for seabirds”. The seabirds (conservatively estimated as 34 species) that are found in Te Ākau Bream Bay include one species that is listed as ‘Threatened – nationally critical’ (e.g. Tara iti, fairy tern), and four that are ‘Threatened – nationally vulnerable’. Overall, 82% of seabird taxa likely to occur in Te Ākau Bream Bay are classified as either ‘Threatened’ or ‘At Risk’.

The coastal fringe of Te Ākau Bream Bay similarly supports a diverse shorebird assemblage, with Waipū and Ruakākā estuaries specifically, and Te Ākau Bream Bay more generally, all identified as significant bird areas in the Northland Regional Council Regional Plan. Of the shorebirds (13 species) in Bream Bay, one species (Matuku-hūrepo, Australasian bittern) is ‘Threatened – nationally critical’, and another two species are listed as ‘Threatened’. Overall, 70% of shorebirds likely to occur in Te Ākau Bream Bay are classified as either ‘Threatened’ or ‘At Risk’.

All indigenous (native) birds are fully protected under the Wildlife Act 1953. For seabirds, exceptions to full protection under the Act include those species listed under Schedule Three of the Act, which allows for species to be hunted or killed subject to the Minister's notification, and Schedule Five of the act identifies species that are not protected e.g. karoro black-backed gull.

The National Policy Statement for Indigenous Biodiversity (NPSIB) aims to maintain indigenous biodiversity across Aotearoa New Zealand such that there is at least no overall loss in indigenous biodiversity. The NPSIB applies to all indigenous biodiversity in the terrestrial environment but additionally makes provision for specified highly mobile fauna whether or not they use areas outside the terrestrial environment, including the coastal marine area – this includes several species of shorebirds, gulls, terns and kāruhiruhi pied shag. Many of these species occur in/around the proposed sand extraction area, including along the shore of Te Ākau Bream Bay to the east of the proposed sand extraction area.

### **Benthic communities including shellfish**

The mining activities are likely to impact shellfish including scallops through removal from the seafloor during mining resulting in death or injury, and damage to shellfish habitat, resulting in damage and removal of tubeworm fields, shell hash, and settlement substrates such as fine branching red algae. There will be significant adverse effects on macrofauna in benthic habitats that are dredged.

Every commercial scallop / *Pecten novaezelandiae* fishery in Aotearoa / New Zealand is closed. Habitat degradation is thought to be the main barrier preventing scallop recovery. The Bream Bay area has been closed to bottom trawling and Danish seining since at least 1986, and in October 2022 the scallop fishery was closed. The Bream Bay scallop bed is the second largest in Northland and accounts for almost 22% of the Quota Management Area SCA 1. Most of the proposed sand mining area overlaps with this passive recovery zone. The proposed sand mine activities could have serious impacts on the viability of the fragile fishery.

### **Monitoring**

While it is noted in the application that the company will monitor the state of the mining area for any deterioration over the course of the sand extraction, we do not consider the monitoring

plan is adequately detailed. There are no consequential decision points, and the purpose and the timing of monitoring often seems ambiguous, with unclear objectives beyond regularly documenting change (or absence of change) in the extraction area and vicinity.

The consequences are unclear for management, and there are few, if any, defined trigger points that will result in changes in activity. If this sand mining goes ahead, there need to be clear points at which operations must cease if/when defined deleterious impacts are observed.

### **Economic Argument for the need of sand extraction**

Economic arguments about sand being a nationally essential resource for development are contradicted by a number of economic analyses including a report by BECA for Friends of Bream Bay, that showed that both within NZ and internationally there is a move away from dredging and sand mining to sand recovery from resources on land, and production of manufactured sand.

A report by Hayden Green, an Economist based in Waipu, questions the economic argument outlined by the company. He believes the economic analysis is manifestly inadequate and flawed in several key aspects. See [Economic Considerations — Save Bream Bay Sand](#)

## **5. Treaty Responsibilities under Section 4 of the Conservation Act**

Section 4 of the Conservation Act 1987 requires that the Act (and all Acts referred to in Schedule 1 including the Reserves Act and Wildlife Act) be interpreted and administered to give effect to the principles of the Treaty of Waitangi. This principle is integral across all aspects of conservation governance.

The NZCA assesses whether the project:

- Recognises mana whenua and their enduring relationship to the affected area
- Demonstrates alignment with Treaty settlement instruments, including statutory acknowledgements
- Involves early, genuine, and culturally grounded engagement with iwi and hapū
- Protects and upholds Māori customary rights and decision-making roles.

## Comment

NZCA is concerned about the situation of iwi and hapū who have not yet settled, particularly impacts on Patuharakeke Hapū given their rohe moana encompasses Bream Bay and the proposed sand mining site and associated areas.

Patuharakeke's vision is for *"A healthy rohe moana that enables us to sustain our whanau and kainga and manaaki our manuhiri with kaimoana."*

Patuharakeke have identified 10 cultural impacts of the proposed sand mining:

Rangatiratanga / Mana Moana:

- Undermining the customary authority of Patuharakeke in Te Ākau Bream Bay
- Disregard of Patuharakeke customary rights, interests and practices in Te Ākau Bream Bay
- Minimal consideration of Patuharakeke values, interests and matauranga in:
- Locating the proposed fast-track activity in Te Ākau Bream Bay, and
- In preparing technical reports to inform the design and delivery of the project
- Disregard to the values and wellbeing of Te Ākau Bream Bay Community
- Kaitiakitanga
- Limited, to non-existent, provisions for Patuharakeke to exercise its kaitiakitanga in accordance with Patuharakeke tikanga
- Insufficient consideration of Patuharakeke relationship with Te Ākau Bream Bay and Marine Mammals
- No protection, nor safeguarding, of areas of significance and importance to Patuharakeke
- Adverse effects on the mana and mauri of Tangaroa
- Limited, to no, consideration and response to Climate Change
- Cultural losses and costs to Patuharakeke on (present and future) rangatiratanga and kaitiakitanga and the costs to the Local Community.

Patuharakeke are not in a position to support the fast-track proposal to extract sand from Te Ākau Bream Bay. This position is on the basis that the extent of the adverse effects (and costs) to the Rangatiratanga of, and exercise of Kaitiakitanga by, Patuharakeke, are substantial. There will be an adverse effect on the customary authority, and customary rights/interests/practices, of Patuharakeke should the project proceed in its current form.

Complementary recommendations in addition to this overarching recommendation reflect the:

- information gaps, incomplete investigations, and uncertainties for Patuharakeke to be comfortable that the fast-track project will address and manage the adverse effects on Patuharakeke, and
- minimal consideration of Patuharakeke values, interests and mātauranga, including Patuharakeke culture and traditions and relationship with Te Ākau Bream Bay (and Whangārei Harbour and Hauraki Gulf).

## **6. NZCA Position and Recommendations to the Expert Panel**

In 2020, the New Zealand government set out a strategic framework - Te Mana o Te Taiao Aotearoa New Zealand Biodiversity Strategy - for protecting, restoring, and sustainably using biodiversity, especially indigenous biodiversity. Aspects of this application are inconsistent with objectives of, and targets in the consequent implementation plan, Action for Nature which was released in April 2026.

In particular, the proposed activities are inconsistent with:

National Target 3: Biodiversity protection is at the heart of economic activity. By 2030:

*Economic tools promote the protection and restoration of biodiversity for its intrinsic value, as well as its economic benefits.*

National Target 10: 10. Ecosystems and species are protected, restored, resilient and connected from mountain tops to ocean depths. By 2030: ... There is no loss of the extent or condition of indigenous land, wetland, freshwater ecosystems, and marine and coastal habitats, which have been identified as having high biodiversity value.

The proposed activities will not protect intrinsic biodiversity but instead they constitute clear threats to absolutely protected species – cup corals – as well as marine mammals, sea and

shore birds, and the complex and diverse marine benthic communities of Te Ākau Bream Bay that support the growth of invertebrates such as scallops as well as diverse fish species.

The NZCA **does not support** this application under the FTAA. This position reflects a balanced consideration of the proposal's potential benefits, its engagement with statutory conservation responsibilities, and its implications for Treaty relationships and ecological values.

The proposed activities will neither protect nor restore ecosystems, given they are situated in an area identified as having high biodiversity of marine megafauna, as well as a site of recovering scallop beds.