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TO: Local Government and Environment Committee

### **SUBMISSION ON KERMADEC OCEAN SANCTUARY BILL**

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***EDS requests the opportunity to present its submission to the Committee in person.***

### **SUMMARY OF SUBMISSION**

EDS supports the Kermadec Ocean Sanctuary Bill (with amendments to simplify the process to obtain authorisations for marine scientific research) for the following reasons:

- It is consistent with New Zealand's powers and obligations associated with managing the EEZ and will assist New Zealand in meeting its international commitments.
- It will bring New Zealand into greater alignment with large marine protected area initiatives by other countries within the Pacific region.
- It will protect an area of outstanding geographical and biological value for future generations.

### **1. INTRODUCTION**

The Environmental Defence Society (EDS) is a not-for-profit environmental organisation comprised of resource management professionals who are committed to improving environmental outcomes. EDS was first established in 1971 and operates as an environmental think tank on environmental management and litigator on environmental matters of national importance.

EDS has a long interest in the management of New Zealand's marine space. We have produced a number of policy reports on relevant topics including oceans policy, the establishment of an Environmental Protection Authority, the development of new legislation for the Exclusive Economic Zone (EEZ) and marine protection. Of most relevance to the Bill is our 2012 publication *Safeguarding Our Oceans: Strengthening Marine Protection in New Zealand*.

## 2. INTERNATIONAL CONTEXT

New Zealand has an international obligation to protect and preserve the marine environment. These include:

- Under the *United National Convention on the Law of the Sea*, ratified by New Zealand in 1996, the country has a general obligation to ‘protect and preserve the marine environment’ under its jurisdiction which includes the territorial sea and EEZ.<sup>1</sup> This includes taking all measures necessary to ‘to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life’.<sup>2</sup>
- Under the *Convention on Biological Diversity*, ratified by New Zealand in 1993, the country is required to establish a system of protected areas and to regulate where necessary for the protection of threatened species and populations.<sup>3</sup>
- Under the outcomes of the Conference of the Parties to the Convention on Biological Diversity (2010) which adopted the *Aichi Biodiversity Targets*, New Zealand has committed to a target that by 2020 ‘10 per cent of coastal and marine areas, especially areas of importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes.’

The creation of a no-take area extending over the EEZ surrounding the Kermadec Islands is consistent with these international obligations and will assist New Zealand in meeting them. New Zealand currently has no fully protected areas within the EEZ and this Bill would help address this gap. It also brings New Zealand into better alignment with actions taken by other countries to fully protect large areas of ocean within the Pacific region including the Coral Sea Marine Reserve announced by Australia in 2012 and the Pacific Remote Islands National Marine Monument established by the United States in 2014.

## 3. DETAILS OF LEGISLATION

### ***Section 3: Purpose***

EDS supports the purpose of the legislation which is to ‘*preserve the Kermadec Ocean Sanctuary in its natural state*’. The Kermadec ocean contains extraordinary geological and biological diversity, is of great importance to seabirds and marine mammals, and contains many unique marine species. It is currently largely un-impacted by human activity and so it is fitting that the legislation seeks to preserve this pristine area in its natural state.

### ***Section 9: Activities prohibited in Kermadec Ocean Sanctuary***

EDS supports the prohibition of fishing, mining, disturbance of the seafloor, dumping and the causing of vibrations likely to have an adverse effect on marine life within the ocean sanctuary. This is necessary to achieve the purpose of the legislation which is to preserve the areas 'in its natural state'.

### ***Sections 13-22: Authorisations for marine scientific research***

EDS supports the requirement for authorisations to be obtained for marine scientific research, but we consider that the current proposed process to obtain consent is too onerous, complex and costly and it is likely to act as a deterrent to marine research taking place. Even where consent is granted, the costs of obtaining consent will reduce the amount of funds available to undertake the actual research.

In EDS's experience, marine research has been vital in increasing our understanding of the marine environment and how to better manage our impacts on it. It should be encouraged and supported, with any consent processes required being simplified and streamlined as far as possible.

### ***Section 23: Kermadec Conservation Board***

EDS supports the establishment of a dedicated Kermadec Conservation Board to carry out the functions under the Conservation Act 1987.

### ***Schedule 1, Clause 1: No compensation payable***

EDS supports the provision that no compensation is payable for any adverse effect on a right or interest, including on the value of quota or a right to fish. The Kermadec Ocean Sanctuary is being created to meet a strong public interest in preserving the area for future generations. Little commercial fishing currently takes place in the area, and the species targeted are not resident there.

The grant of fisheries quota does not restrict the ability of government to set aside areas where fishing may not take place. In addition, the granting of fisheries quota to Māori as a result of the Treaty of Waitangi Fisheries Settlement 1992 does not create any rights additional to those held by other commercial fishing quota holders. The 1992 Settlement was in full and final settlement of any commercial fishing claims by Māori.

## **CONCLUSION**

EDS strongly supports the proposal establish the Kermadec Ocean Sanctuary.

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<sup>1</sup> Article 192, Law of the Sea

<sup>2</sup> Article 194, Law of the Sea

<sup>3</sup> Articles 7, 8 and 14, Biodiversity Convention