

# Amendments to the Svalbard Environmental Protection Act and associated regulations on nature conservation areas, motor traffic, camping activities and area protection and access to Virgohamna

Consultation Paper  
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Photo: Marie Selboskar Lier

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## 1. Introduction

A total of 67 per cent of Svalbard’s land areas and 88 per cent of the territorial waters are protected as nature reserves and national parks and most of the archipelago is still untouched wilderness. Few, if any, areas so far north have a similarly rich flora and fauna. This is mainly due to Svalbard’s location on the border between the cold waters of the Arctic Ocean and the temperate waters of the North Atlantic Ocean, which extend further towards the north here than anywhere else. These vast, virtually untouched natural areas have great intrinsic value and low impact from local activities is important for the preservation of the vulnerable biodiversity found here. At the same time, the areas have great value as a source of knowledge and nature experience. Untouched nature is becoming increasingly rare in a global context and today, Svalbard is one of the largest remaining wilderness areas in Europe. Global warming is having a particularly strong impact on Svalbard and makes the natural environment of Svalbard even more vulnerable. The combination of rapid climate change and virtually untouched nature has made Svalbard even more important as a reference area and source of important knowledge about climate change and the environment.

St. meld no. 9 (1999-2000)(white paper), and now recently reiterated in the Svalbard White Paper from 2016 (Meld. St. 32 (2015-2016)), objectives have been set for environmental protection in Svalbard. These environmental objectives are as follows:

- Based on its internationally important nature - and cultural heritage, Svalbard will be one of the most best-managed wilderness areas in the world
- Within the framework set by the Treaty and sovereignty considerations, environmental considerations shall prevail in the event of conflicts between environmental protection and other interests
- The extent of wilderness areas shall be maintained
- Flora, fauna and cultural remains that warrant protection shall be preserved virtually intact, and the natural ecological processes and biodiversity must be allowed to evolve practically undisturbed by human activities in Svalbard
- There will be large and virtually pristine natural areas in Svalbard that meet the need for references areas for climate and environmental research
- The possibility to experience Svalbard's natural environment undisturbed by motor traffic and noise shall be ensured, including areas that are easily accessible from inhabited locations.

In December 2019, the Government announced that access and passage in Svalbard must be regulated so that the vulnerable wilderness in Svalbard is preserved for the future, and therefore, would consider several measures, including stricter rules on landing in vulnerable areas. The reason for this was that the natural wilderness and cultural remains in Svalbard must be protected against the increased accumulative environmental effects of tourism and climate change and that the Norwegian Minister of Climate and Environment would consider several appropriate and targeted measures to protect wildlife, nature and cultural remains.

Svalbard is one of the places on the planet where the temperatures are rising fastest and according to IPCC's 6th main climate change report, the temperature in the Arctic over the past 50 years has probably been more than twice that of the average global warming and this trend will continue<sup>1</sup>. The negative effects of climate change such as ocean acidification, less ice and changes in the food chain will change the environment and the living conditions for the species in the Arctic and Svalbard to an increasing extent in the next decade, with major consequences for nature and many of the species found there<sup>2</sup>.

Climate change has also made many species and natural environments more vulnerable to the effects of traffic. Together with increased traffic, this increases the potential for a negative impact on wildlife and wear and tear on the vegetation and cultural remains. The number of visitors to Svalbard has increased considerably; from 2015 to 2019 alone, the number of commercial overnight stays in Svalbard has increased by 30% and the number of ships offering expedition cruises has

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<sup>1</sup> IPCCs AR6 Climate Change 2021: The Physical Science Basis

<sup>2</sup> The UN Intergovernmental Panel on Climate Change's report on the impact on oceans and ice from 2019

increased from 23 in 2010 to 73 in 2019<sup>3</sup>. The season for tourism activities has also become longer and new areas are being used. The strain on Svalbard's natural and cultural environment from different types of traffic is in addition to - and must be considered on the basis of - the negative impact of climate change. Although all access and passage in Svalbard must take place in a way that does not harm, litter or impair the natural and cultural environment, traffic nevertheless has negative effects, because the total traffic is very high in several vulnerable areas. The effects of traffic are discussed further in Section 5.

The main features of the environmental regulations have remained unchanged since the Svalbard Environmental Protection Act came into force in 2002. The Act was drawn up at a time where both society in general and tourism, in particular, were less complex. The number of tour operators and visitors was far fewer, and the number of organised tours was less extensive both in terms of activities and season. This has now changed and like other areas of society in Svalbard, the regulations must be adapted to this changing reality. Therefore, several and more detailed frameworks are needed to be put in place to better safeguard the unique natural and cultural heritage values in Svalbard also for the future, in line with the environmental objectives.

The coronavirus pandemic has led to much less activity in tourism and traffic in Svalbard than before. It is uncertain when and how quickly the activity will pick up again but that Svalbard will return as an attractive destination after the pandemic is clear. Svalbard then needs environmental regulations that are suitable for ensuring that the environmental objectives can be achieved both with the current and future extent of traffic.

The Norwegian Ministry of Climate and Environment has requested the Norwegian Environment Agency in cooperation with the Governor of Svalbard, the Directorate for Cultural Heritage and the Norwegian Polar Institute to propose amendments to the environmental regulations for Svalbard to reduce the overall impact of traffic and to maintain the environmental protection objectives in Svalbard - as outlined in Stortingsmelding 32 (2015-2016) (white paper) and section 1 of the purpose of the Svalbard Environmental Protection Act<sup>4</sup>. The Norwegian Environment Agency has proposed amendments to the environmental regulations and has received input from the agencies in the work. The Norwegian Polar Institute has provided scientific knowledge through expert assessments and compilations commissioned by the Norwegian Environmental Agency. In the general collection of knowledge, information has also been obtained from local working groups in Longyearbyen and some main features from the opinions are contained in Annex 8.

On behalf of the Norwegian Ministry of Climate and Environment, the proposed amendments to the environmental regulations for Svalbard are hereby submitted for consultation.

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<sup>3</sup> Statistics from the Governor of Svalbard

<sup>4</sup> Letter of assignment from the Norwegian Ministry of Climate and Environment of 14 February 2020



## 2. The main features of the consultation proposal

### 2.1 The considerations that have been emphasised

The proposals in the consultation paper have been based on knowledge of activities and traffic in Svalbard and about the environmental impact of traffic and other influencing factors. In addition, the principles of cumulative environmental effects and precaution, which are enshrined in sections 7 and 8 of the Svalbard Environmental Protection Act, have been an important factor in the assessment of which proposals should be put forward. The principles are particularly important in the current situation where traffic and climate impact are increasing rapidly and we have uncertain and incomplete knowledge about the impact of traffic and how this works and will interact with climate change and other environmental impact such as pollution and plastic waste. The core of the precautionary principle is that the environmental authorities must take the necessary measures to avoid possible harmful effects to the environment, despite not fully knowing the scale and consequences of the problem. The preparatory work on the Svalbard Environmental Protection Act and subsequent white papers on Svalbard stated that this shall be the guiding principle for the management of the natural and cultural environment in Svalbard and means that a good margin must be used to safeguard the environment, even though the scale of the problem is not fully known. In this context, the principle of cumulative environmental effects implies that when new regulations are proposed, it is the cumulative effects of all influencing factors that are considered and not each influencing factor on its own.

As a result, the purpose of the proposed amendments to the environmental regulations will be to reduce the overall impact of traffic and other human activity in Svalbard so that the environmental objectives can be achieved, also in terms of how the natural environment and cultural remains are affected by climate change and other global environmental impacts in the years ahead. To reduce the burden from traffic and activities, we consider it important to have tighter regulation of activities in progress today, to regulate possible future activities and channel the traffic to preserve larger areas (than today) that are affected by traffic to a much lesser extent.

Emphasis has also been placed on the consideration for permanent residents, research and trade and industry. The objective of the work is to meet the environmental objectives and the purpose of the Svalbard Environmental Protection Act. Within this framework, a strong emphasis has been placed on formulating the regulatory amendments in a way that minimises the costs for the affected parties so that the environmental objectives can be achieved at the lowest possible cost to society. The proposed amendments have been based on a zone between protected areas and areas that are not protected, with more extensive regulations in many of the protected areas. Considerable emphasis has been placed on following up the priority in the most recent Svalbard white paper, of Isfjorden as an area where tourism should be able to develop.

Emphasis has also been placed on ensuring that the regulations are as simple for the users as possible, easy to enforce and not too resource-intensive to supervise.

## 2.2 Overview of the consultation proposals

The consultation paper first describes the distinctive characteristics of the environment in Svalbard in Section 3. Then follows a description of the knowledge about the environmental impact of traffic in Section 4. The status and developments in tourism are discussed in Section 5. The individual proposals are discussed in Sections 6 - 10 and the consequences of the proposals are summarised in Section 11. Finally, Section 12 discusses the prerequisites for successful implementation. The specific proposals are:

- Regulation of landing and staying on land in connection with tourist activities at the Ossian Sars, Northeast Svalbard and Southeast Svalbard Nature Reserves and South Spitsbergen, Forlandet, Northwest Spitsbergen, Van Mijenfjorden and Indre Wijdefjorden National Parks. (Section 6.4)
- The requirement that tour operators have approved site-specific guidelines before landing at certain localities is repealed. (Section 6.5.1)
- The prohibition against access and passage in Habenichtbukta is repealed and access and passage in Virgohamna can take place without a permit from the Governor of Svalbard. There will be conditions related to landing and access and passage due to the proposed regulation of landing in connection with tourist activities. (Section 6.5.2)
- Cruise ships entering the protected areas may have a maximum of 200 passengers on board. (Section 6.6)
- Requirements for all access and passage on land in protected areas to prevent wear and tear on the terrain and cultural remains and disturbance of wildlife. (Section 6.7)
- Tightening of the prohibition against seeking out polar bears and a requirement of a safe distance of at least 500 metres. (Section 7)
- Prohibition against motor traffic on sea ice after 1 March in Rindersbukta and Fridtjofhamna in Van Mijenfjorden (for permanent residents and visitors) and Dicksonfjorden (for visitors). Prohibition against motor traffic on sea ice after 1 March on Billefjorden, Tempelfjorden, Van Mijenfjorden and Van Keulenfjorden (permanent residents and visitors) but with some exceptions. (Section 8.2). Prohibition against motor traffic on sea ice has already been regulated in the Regulations on Van Mijenfjorden National Park and entails no change to the current state of the law.
- Prohibitions against breaking fast ice and ice which is in the process of forming except for fairways into the ports of Longyearbyen and Barentsburg, for supplies to Ny Ålesund and for the Norwegian Coast Guard to perform necessary tasks. (Section 8.3)
- Speed limit of 5 knots in the sea in an area 500 metres from selected bird cliffs in the period 1 April to 31 August. (Section 8.4)



- Traffic at sea shall maintain a minimum distance of 300 metres from walrus haul-out sites. (Section 8.5)
- Prohibition against the use of underwater vehicles (Section 8.6).
- Duty to apply for a permit to drive on bare ground in land-use areas for building and construction work on cabins (Section 8.7).
- The use of electric bicycles on snow-covered and frozen ground will be permitted in the same areas as the use of snowmobiles and tracked vehicles is permitted. (Section 8.8)
- Application requirement for camping activities in connection with tourist activities, field activities and under the auspices of research and education activities. Application requirement for other camping activities when the camping takes place in the same place for more than one week. Requirement for a vigilant polar bear watch for camping activities in connection with tourist activities, field activities and under the auspices of research and education activities. (Section 9)
- Prohibition in protected areas against the use of unmanned vessels (drones) and other remotely controlled devices for use in the air, on the ground and on and under water. Prohibition against the use of unmanned aerial vehicles (drones) closer than 500 metres from bird cliffs in the period 1 April to 31 August. (Section 10)

### **3. The distinctive characteristics of the environment in Svalbard**

Svalbard has a unique Arctic natural environment and is one of the last largest wilderness areas in Europe. The combination of coast, islands, drift ice and productive shallow sea areas where temperate waters from the Atlantic Ocean meet the cold Arctic Ocean provides wildlife and biodiversity richer than any other area so far to the north. Low temperatures, light conditions ranging from winter darkness to the midnight sun, permafrost, sea ice and a landscape still being shaped by active glaciers characterise the archipelago. Biological production is limited due to the low temperatures, short growing season and low precipitation. Relatively few species survive in this environment, but in return, there are often large populations of the individual species. Most of the wildlife in Svalbard depends on the marine ecosystem in the Barents Sea. The vulnerability to changes and intervention in this system is therefore great. This also applies to some extent to land-living herbivores such as reindeer and grouse, because the large seabird populations help to fertilise the vegetation surrounding the many seabird colonies along the coast of Svalbard. Degradation and growth processes are slow in Svalbard due to the low temperatures and a short growing season. Therefore, waste and organic pollutants are broken down very slowly.

The vegetation in Svalbard is vulnerable. Low production leads to slow revegetation where there has been damage to the vegetation cover. Vegetation-free areas destroy the insulating effect against

permafrost, the substrate thaws and erodes, which means that any damage can be further aggravated. Continuous vegetation is only found in the lowland areas along the coast and ice-free valleys. Less than 10% of the land area has biological production of significance. As human activity is also concentrated in the ice-free lowland areas, disturbance and traffic affect a relatively large part of the most biologically productive land areas.

Without comparison, Svalbard is the largest and most untouched wilderness area in Norway. Svalbard's natural environment is relatively unaffected by local human activity. Outside the local communities, the archipelago is largely free of heavier technical encroachments and the natural biodiversity is developing today without much influence from local activities. Over-exploitation of the wildlife due to hunting was previously a major influencing factor and led to significantly reduced populations of Greenland whales, walrus, polar bears, Svalbard reindeer and several species of geese. After being protected over the last 100 years, most of these populations are growing, although several species, such as polar bears and Greenland whales, still have a low population level compared with before they were hunted.

Climate change is happening very quickly in Svalbard and today is the factor that has the greatest impact on the environment. Trends and projections indicate that the impact of climate change will increase significantly in the future. Other important influencing factors are traffic, transported inflows of environmental toxins and plastic waste and the fisheries activity in the fjords and the seas around Svalbard. Ocean acidification and alien species are also expected to have an increased impact as influencing factors

Life on land and in the sea is adapted to the Arctic climate in Svalbard and thus is vulnerable to climate change beyond natural fluctuations. According to Intergovernmental Panel on Climate Change (IPCC),<sup>5</sup> we can expect the temperature increase in the Arctic to be more than twice as fast as the global average, and melting of the ice in the polar regions will continue to change ecosystems. Climate change has led to significant reductions in the sea ice extent in Svalbard, which causes major changes in ecosystems. In addition to a lower sea ice extent, the ice does not become as thick and forms later and disappears earlier in the season than was observed, for example, in the 1990s<sup>6</sup>. A consequence of a less sea- and fjord ice is significantly reduced habitats for many ice-dependent species in the Arctic ecosystems, such as polar bears and ringed seals. This is particularly true in the coastal and fjord areas on the west side of Spitsbergen.

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<sup>5</sup> IPCC Sixth Assessment Report (AR6), Climate Change 2021: The Physical Science Basis

<sup>6</sup> <https://cryo.met.no/nb/svalbard-kryosfaere-sess>

The species in the Arctic food chains store a lot of nutrition in the form of fat. This makes the animals at the top of the food chains particularly susceptible to fat-soluble environmental toxins that are concentrated through the food chains. Svalbard lies in an area that receives a significant volume of environmental pollutants carried over a long distance through air and ocean currents. This results in high levels of environmental toxins<sup>7</sup> (heavy metals, fluoride compounds, PCB, fire retardants, etc.) that also involves stress on the natural environment. The levels of organic pollutants such as PCB are higher in animals at the top of the marine food chain in Svalbard than in most other parts of the Arctic. Increase CO<sub>2</sub> concentrations in the atmosphere are causing to acidify the oceans. Plastic waste and microplastics in the sea<sup>8</sup> also strain the ecosystems and probably mean that species are more vulnerable to other influences.

The cultural remains in Svalbard tell stories of hunting, expeditions and mining from the 17th century to the present day. They give us knowledge about how society has developed in the inhospitable and Arctic wilderness. Natural resources and the attraction of the magnificent wilderness have always been a prerequisite for activities in Svalbard. Climate change and increasing traffic pose the greatest threat to Svalbard's cultural monuments today.

## 4. The status and development of tourism

Although there has been tourism in Svalbard for more than one hundred years, it was not until the 1990s that a modern tourism was established. Targeted and long-term advertising, a better air service, more tour operators and ships, as well as increased accommodation capacity in Longyearbyen, have led to a significant development in tourism activity in Svalbard, and tourism in Svalbard has increased considerably since the first records in 1996. This applies to land-based tourism in the summer and winter and not least cruise tourism.

The number of guest days in Longyearbyen has increased from 33,000 in 1995 to 158,000 in 2019. The increase has been particularly large in recent years. During the period from 2012 to 2019, the number of guest days in Longyearbyen has almost doubled from 86,000 to 158,000<sup>9</sup>. At the same time, Svalbard has evolved from being a seasonal destination to becoming an almost year-round destination with visitors and activities also during the dark winter months.

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<sup>7</sup> <http://www.mosj.no/no/pavirkning/forensning/index.html>

<sup>8</sup> Ingeborg G. Hallanger and Geir W. Gabrielsen at the Norwegian Polar Institute, 2018. Short report 045 - Plastic in the European Arctic

<sup>9</sup> Statistics from the Governor of Svalbard

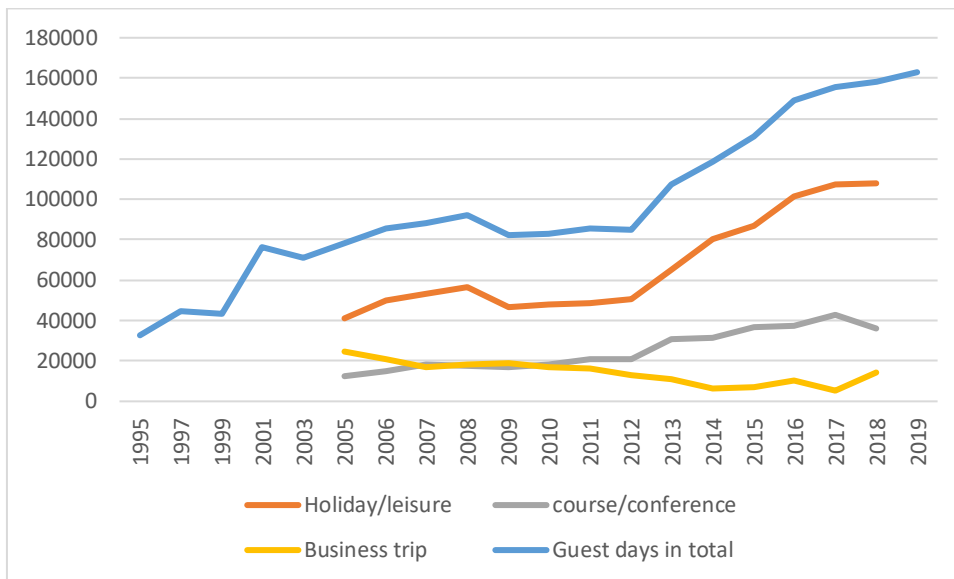


Figure 1 Number of guest days in Longyearbyen 1995-2019.

The number of field days from non-motorised, organised tours in the summer and winter has varied from year to year but with an increase in recent years. This is also following the trend worldwide with an ever-increasing demand for nature-based adventure tourism.

Tourism in Svalbard, including course and conference activities, is mainly related to experiencing its unique natural environment and history. In addition to businesses providing overnight accommodation and restaurants, the tourism industry in Svalbard consists of various tour operators offering one or more of the following; snowmobile rental/guided snowmobile tours, dog sledding, guided hiking/skiing trips out of Longyearbyen, fossil picking tours, day trips by boat in the Isfjorden area, half-weekly and weekly trips by boat along the coast and around Spitsbergen or the entire archipelago. The list is not exhaustive.

The tour operators in Svalbard represent locally based year-round companies and seasonal businesses, as well as some companies with only 1-2 tours in a season. In 2019, only about 20% of the tour operators were locally based with an office address in Longyearbyen. Others have addresses on mainland Norway or internationally. Many of the operators only have activity on Svalbard for a few weeks of the year.<sup>10</sup>

In winter, snowmobile trips bring most people out into the wild. This activity is based on Longyearbyen and Barentsburg and takes place in the Isfjorden area and towards the east coast. There are around 500 rental snowmobiles, and the number is relatively stable.<sup>11</sup> Dog sledding trips, guided ski trips, hiking and ice cave tours are among the activities offered in the local communities.

<sup>10</sup> Annual report from the Governor of Svalbard 2019

<sup>11</sup> Statistics from the Governor of Svalbard

In summer, various forms of cruise tourism dominate. Cruise tourism is also the part of the industry that brings the largest number of people to Svalbard (in 2019, a total of more than 100,000 people for various types of cruises), making large parts of the archipelago available. There are three types of activities/ships: overseas cruise ships, expedition ships and day trip boats in the Isfjorden area. Following the introduction of the fuel quality requirement in 2012, overseas cruise ships sail mainly in Isfjorden with landing in Longyearbyen and some cases also in Barentsburg and Pyramiden. Expedition ships sail along the coast of West Spitsbergen, around Spitsbergen and Nordaustlandet. The day trip boats mainly operate in the Isfjorden area.

Most expedition ships are ships with up to 200 passengers, but there are also some ships with up to 500-600 passengers. The trips usually last from 3-4 days to over a week and 1-3 landings per day is common. The attractions that are sought out are usually wildlife or cultural remains. The most popular landing points are often places that are haul-out sites for walrus, bird cliffs, cultural remains from the whaling era, a trapping station or cultural remains from an expedition or mining. Statistics from 1996 to 2019 show a significant increase in the number of ships, the number of people ashore and the number of landing sites used. This is described in more detail in Section 6.2, where the status and development in sea-based tourism is described. Some of the development in the number of landing sites may be due to the skiing and sailing concept, where tourists go ashore in places where they can climb a peak and ski down from there, but it is also likely that the high density of boats makes tour operators look for new places.

## **5. Knowledge about the impact on the natural and cultural environment**

### **5.1 About the knowledge base in general**

We have some knowledge about how different types of traffic can and are affecting wildlife, vegetation and the cultural environment on a local scale in Svalbard, about which species and habitats that are particularly vulnerable and how disturbances and damage can be avoided through access with due care and traffic restrictions. We also know how different types of traffic are distributed geographically and throughout the year, and about which areas have become more vulnerable to traffic due to climate change and thus have greater need for protection. Surveys and observations in the field have also provided some knowledge about disturbances of wildlife by traffic for some species<sup>12</sup>, but studies that specifically investigate the impact of traffic on wildlife in Svalbard are largely lacking and do not exist for effects on the population level. We have more

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<sup>12</sup> Overrein Ø. 2019. "Ferdsl og dyreliv på Svalbard – en veileder i møte med Svalbards natur." The Norwegian Polar Institute

knowledge about the effects of traffic on vegetation and cultural remains, partly because it is much easier to quantify. Status and trends for Svalbard as a whole in terms of the extent of wear and tear and damage to vegetation or cultural remains have also not been systematically identified.

Knowledge about how traffic affects and will affect the environment in interaction with climate change is also uncertain and it is difficult to prove what the traffic means in a complex reality where climate change is the dominant influencing factor. Ice-dependent species such as ringed seals and polar bears and species that are strongly affected by changes in the marine environment, such as seabirds, are particularly vulnerable in Svalbard. At the same time, there are also native species in Svalbard that have at least so far benefited from a warmer climate. One example is Svalbard reindeer, where an increase in the population is seen over time, probably due to a longer growing season and better grazing conditions in the summer. However, there is a well-established scientific understanding that climate change in many cases makes nature more vulnerable and that it thus withstands other stresses less well. Based on this, the UN Intergovernmental Panel on Climate Change (IPCC) has found that reducing other influencing factors is the most effective and often the only possible form of climate adaptation when it comes to the conservation of biodiversity.

## 5.2 Impact on the terrain and vegetation

As much as 85% of Svalbard consists of glaciers, mountains and sparsely vegetated areas. Only around 3.5% of the area has fairly lush vegetation (moss tundra, wetlands, snow beds and grass heaths) while around 11.7% of the area consists of poorer vegetation (such as heath vegetation, Arctic wood rush, pioneer communities and polar desert). Nordaustlandet is the poorest area, while Prins Karls forland and Edgeøya are the areas with relatively speaking the highest level of vegetation coverage. No systematic habitat type surveys have been conducted according to nationally established methodology, except in some areas around Longyearbyen. However, many different surveys of the vegetation in Svalbard have been conducted over the years and vegetation maps have been prepared for the archipelago that says something about how the plant ecological communities are distributed<sup>13</sup>.

Most types of vegetation in polar regions, such as Svalbard, have poor regrowth capacity and many types of vegetation also have poor durability and are thus generally sensitive to traffic and mechanical influences<sup>14</sup>. The water content of the soil, the substrate and the slope of the terrain are the factors that affect the vulnerability of the vegetation the most. Climate change results in increased precipitation and melting of permafrost, making the terrain even more vulnerable to wear

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<sup>13</sup> NINA report 456 Vegetation map of Svalbard based on Satellite data documentation of methods and descriptions of vegetation.

<sup>14</sup> Hagen D. et al 2020. NINA report 1838 Regulatory amendments for traffic in Svalbard – a professional assessment of the vulnerability of the vegetation.



from traffic. In sensitive areas, even low levels of traffic can create wear and tear and heavy traffic will lead to a visible effect even in rugged terrain without vegetation. Scars in the terrain can remain visible for many decades after discontinued use due to poor regrowth<sup>14</sup>.

The terrain in Svalbard is also characterized by glacial processes and geological formations, where moraines are very widespread. Tracks in moraine structures with a fine substrate leave traces even after light traffic and the damage will be irreparable as they are shaped by glacial processes and thus cannot be restored or recreated without a new such process.

### 5.3 Impact on the wildlife

The impact of traffic on the wildlife is mainly disturbance. Disturbance from traffic has been studied in several species and has been documented as a negative influencing factor that contributes to the degradation of the habitats and can lead to habitat avoidance<sup>15 16</sup>. However, this influencing factor is more difficult to document than easily visible effects such as wear and tear. In many cases, the response is evident with escaping the area or attacks against what is perceived as a threat. However, the response often consists of a physiological stress reaction that is not very visible to humans, even if the disturbance is real. Whether the disturbance triggers a visible response such as flight depends on the species' tolerance for approach, and it can be situational and vary between individuals. Limited access to alternative commercial areas, spawning grounds/nesting areas, etc. will raise the threshold for fleeing the site<sup>18</sup>. For example, a polar bear that finds a whale carcass will have a high threshold for leaving the site even if humans approach. Both physiological and physical responses are energy-intensive and in the event of repeated disturbances would give the individual a reduced general condition that will have an impact on survival, reproduction and recruitment.

Avoidance behaviour associated with the frequent presence of humans leads to the temporary loss of habitat when animals and birds completely or partially avoid areas of traffic that exceeds their tolerance limit. What it takes for the disturbance to affect species at the population level depends on the frequency - how often the disturbance takes place, in what situation it occurs and the duration of the disturbance. A disturbance that occurs rarely leads to temporary loss of habitat if the animal is prevented from carrying out the activity it is doing or must flee the site. Under given circumstances, a disturbance event can trigger major consequences for individuals or flocks of animals. When adult individuals are frightened away from nesting sites in bird colonies, the chicks are exposed to predators and for colonies, such as bird cliffs, a single event can affect many nesting

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<sup>15</sup>Jansen J.K. et al. (2010) *Reaction of Harbour Seals to Cruise Ships*. Journal of Wildlife Management 74 (6):1186–1194.

<sup>16</sup> Velando & Munilla. 2011. *Disturbance to a foraging seabird by sea-based tourism: Implications for reserve management in marine protected areas*. Biological Conservation **144**: 1167-1174

birds. However, a single event without repetition will not have a significant impact on population size over time.

If the disturbance is repeated, e.g., in several subsequent nesting and nesting seasons, the impact can lead to a reduction in population levels and it is repetitive disturbances over time that cause persistent habitat avoidance. A specific threshold for when this takes place will be very difficult to set as it is both species and situation-dependent.

Reduced access to preferred habitats contributes negatively to reproduction and survival and the more reduced this access is, the more impact the disturbance will have at the population level. Animals usually see humans as a threat and for many animals, the reaction pattern is the same as when a predator approaches<sup>17</sup>. The consequences have been documented across species and geography and have clear common features. The studies document poorer fitness, lower reproduction and survival compared with undisturbed populations within the same species<sup>18</sup>. The cause is usually that the animals are displaced to less disturbed areas, and prefer to stay there even if the area turns out to be suboptimal, e.g., by providing poorer access to food.

A study outside Frøya and Smøla documents the phenomenon for Norwegian conditions<sup>19</sup>; eider ducks show a flight response to an approaching small boat travelling at a speed of 6 knots at a distance of 700 metres and avoidance of the area lasted up to 45 minutes. After the disturbance, the birds did not return to the preferred feeding place in shallow water but used deeper areas further away with poorer nutritional conditions. Shags on the Iberian coast reacted similarly<sup>20</sup>. On Hornøya, guillemots and shags have significantly reduced breeding success due to traffic on the bird cliff. Here too, a migration to less disturbed areas of the bird cliff is seen in subsequent seasons after the disturbance<sup>21</sup>. Disenchantment Bay in Alaska represents a similar environment to what we find in Svalbard, where there is also cruise tourism. Several studies have been carried out here that explore the connection between passenger ships and disturbance of wildlife. Studies related to bearded seals in this area<sup>22</sup> show that the flight response occurs at a distance of 500 metres when a ship approaches. Their pulse increases in this situation - which indicates a physiological stress reaction - and fewer cubs have been registered than expected in areas visited frequently by

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<sup>17</sup> Frid, A. and L. M. Dill. 2002. Human-caused disturbance stimuli as a form of predation risk. *Conservation Ecology* 6(1): 11. [online] URL: <http://www.consecol.org/vol6/iss1/art11/>

<sup>18</sup> Gill m. fl. 2001 Why behavioural responses may not reflect the population consequences of human disturbance *Biological Conservation* **97** 265-268

<sup>19</sup> Dehnhard N. m.fl. 2020. Boat disturbance effects on moulting common eiders *Somateria mollissima* *Marine Biology* **167**:12

<sup>20</sup> Velando A. & Munilla I. 2011. Disturbance to a foraging seabird by sea-based tourism: Implications for reserve management in marine protected areas. *Biological Conservation* **144**: 1167-1174.

<sup>21</sup> Reiertsen T.K. et al 2018. Impact study of tourism on sea birds. How does traffic affect nesting seabirds on Hornøya? NINA report 1528.

<sup>22</sup> Alaska Fisheries Science Centre. 2018. Studies of Harbour Seals Using Glacial Ice in Disenchantment Bay, Alaska, 2016-2017

passenger ships. In one species of Black Guillemot (Kittlitz's Murrelet) living here, up to 70% of the birds present show a flight response at a distance of 850 metres from a passenger cruise ship<sup>23</sup>. It is estimated that this entails a significant energy cost. The findings have been based on a total of 36 boats (ranging from ships to smaller boats) through one season in Glacier Bay, and it was set as a starting point that each boat disturbed one individual twice.

In the Arctic environment in Svalbard, the window where reproduction is possible is limited to a short period each year. For the land-living species, the summer months of May-August are crucial. The vulnerability can be illustrated by the biology of Brünnich guillemots, which in Norway are mainly found in Svalbard and are one of the most common seabirds here. Brünnich guillemots lay 1 egg and the whole nesting period takes around 6 weeks. The short Arctic summer allows for only one nesting attempt so a failed nesting will spoil the year's possibility for reproduction. The early conditions are also decisive for the entire life cycle and have an impact on survival and reproduction later in life<sup>24</sup>.

Climate-related changes in the food supply are considered to be one of the main causes of population declines in high Arctic species. Warming of the sea areas leads to disturbances in the food web and is linked to the reduced incidence of key prey such as copepods, Arctic cod and capelin. The loss of means of subsistence is considered one of the most serious stress factors for wildlife in the Arctic and makes individuals less resistant to other stress factors.

The strain that traffic in Svalbard imposes on the natural environment is currently an unknown factor, but new knowledge sheds light on new links that increase our understanding of the vulnerability of the Arctic environment. There is reason to assume that traffic in this environment leads to consequences that have not yet been discovered. New knowledge shows that the dark winter months are an important time for reproduction in the food species in the ecosystem and high activity is documented across all trophic levels<sup>25</sup>. In the winter darkness, even small quantities of added light in the waters around Svalbard cause major disturbances in a finely tuned ecological interaction. Therefore, traffic in the dark winter months will have much greater consequences than previously thought due to new findings regarding activity and the importance light pollution has for these organisms.

The combined strain from all influencing factors leads to challenging living conditions for many of the species in Svalbard. At the same time, the populations of some species in Svalbard are growing

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<sup>23</sup> Timothy K. Marcella et al 2017. Disturbance of a rare seabirds by ship-based tourism in a marine protected area PLoS ONE 12(5).

<sup>24</sup> Cam E. m. fl. 2003. Long-term fitness consequences of early conditions in the kittiwake. *Journal of Animal Ecology* 72, 411–424.

<sup>25</sup> Berge J, Johnsen G, Cohen J, (eds) 2020 POLAR NIGHT marine ecology: life and light in the dead of night. Springer International Publishing.

after the previous over-taxation and show an improvement in the situation. However, there is also great uncertainty about the future for these species. The Norwegian Red List for Species<sup>26</sup> shows that the long-term survival of several of the high Arctic species is under threat.

There are 10 species of seabird that have been assessed on the red list for Svalbard and all have been red-listed from near threatened (NT) to endangered (EN) due to the population decline or small population size. Brünnich's guillemots are one of the most common seabirds in Svalbard and are red-listed in the near threatened (NT) category due to population decline. The decline has been observed in all the monitored colonies, both on West Spitsbergen and Bjørnøya. The breeding population has declined by about 5% per year in the period 2009 up to and including 2019 on Spitsbergen (slightly less on Bjørnøya where the population decline is 3%). This means a reduction in the populations of about 40% of Brünnich's guillemots on Spitsbergen in these 10 years<sup>27</sup>. The reasons for this dramatic decline are believed to be linked to several factors, such as lack of prey, hunting in overwintering areas outside Svalbard, by-catches and human disturbances<sup>21</sup>.

Polar bears and ringed seals are ice-dependent species that are adversely affected by climate change. The polar bear population is still increasing as a result of the hunting ban introduced in 1973 but the population is still so low that the species is classified as vulnerable (VU). The red listing is based on the D criterion, a very small population, and the influencing factors have been considered to be the impact on the habitat, pollution, climate change and human disturbances. Ringed seals in Svalbard are classified as vulnerable (VU) due to climate change causing a significant reduction in land-based sea ice since 2005. The decline in the population of ringed seals is expected to persist in Norwegian areas and be reduced by more than 30% over the next three generations<sup>27</sup>.

The most serious threat to walrus in Svalbard is a warmer climate and like polar bears and ringed seals, the species is a marine mammal that throughout its life history relies on sea ice as a platform. Changes in the ice conditions will not affect this species to the same extent as other Arctic seal species as walrus tend to make use of haul-out sites on land, but changes in ice conditions are expected to reduce access to good grazing areas. Today's 5,500 animals are probably only a fraction of the population before the unregulated hunting begins, so the area has a carrying capacity far above the current population<sup>27</sup>. This causes the population to increase even though the environmental conditions are not ideal. In the red list assessment from 2015, the walrus is considered vulnerable (VU) due to its population size. Human disturbances, climate change and pollution are considered the most important impact factors. The effects of climate change on the sea ice where the walrus give birth to their pups give cause for concern about the development of

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<sup>26</sup> Henriksen S. og Hilmo O. (ed.) 2015. Norwegian Red List of Species 2015. Artsdatabanken, Norway

<sup>27</sup> The Norwegian Polar Institute (2020). Supplementation of the note on compilation of knowledge of the disturbance effects of traffic – red list status and the state of populations, note of 3 July 2020.

the population. The species is usually not very shy towards humans and studies of haul-out sites made by the Norwegian Polar Institute do not show that traffic causes disturbance effects today. However, walruses can be wary of disturbances, especially from boats, as the sea and the area in front of the haul-out site are their escape route if they are frightened. If frightened when lying on land, this can cause a panicked escape to the water and if this happens in flocks of small calves, these can be trampled to death.

Arctic foxes are found throughout the Svalbard archipelago and have no enemies or competitors here. Arctic foxes are predators and scavengers at the top of the food chain and are functionally important because they have a major impact on various prey species and processes in the ecosystem. The future fate of Svalbard's Arctic fox populations will depend on how climate change affects their most important prey - reindeer, geese and seabirds.

Beluga whales live in coastal areas of Svalbard and live close to the ice. Decades ago, it was common to see flocks of several hundred animals together around Svalbard. Over the past 10 years, groups sizes of less than ten are the most common and groups of over fifty individuals are unusual. Based on a lack of knowledge about the species, the Beluga whale in Norwegian waters is classified as DD (Data Deficient)<sup>28</sup> on the red list in 2015. Changes in the ice conditions affect the production of Arctic cod, which is the Beluga whale's staple food. Less ice can also expose these whales to more predation, primarily from killer whales. New diseases and parasites that are expected to come with a warmer climate could potentially be a problem for this whale species, especially if it turns out that their immune system is reduced as a result of the effects of large environmental toxin loads. Increased underwater noise due to human activities is also a possible challenge.

A revised red list is published in October 2021. The final results are not ready at this time, but access to the red list for 2021 gives poorer forecasts than the red list from 2015, among other things, for the most common species of seabird in Svalbard, Brünnich's guillemot. The species is set to change the red list category from near threatened (NT) to vulnerable (VU).

#### **5.4 Influences on cultural heritage sites**

The threat to Svalbard's cultural remains differs from on the mainland, as the threat on the mainland is primarily due to development pressure on land areas. Climate change and increasing traffic pose the greatest threats to Svalbard's cultural remains today. Natural processes such as wind wear, rot and coastal erosion, as well as polar bear visits, will over time break down the cultural remains if no measures are put in place to counteract this. Climate change amplifies these processes and many cultural remains that were previously well preserved in permafrost thaw and are being broken down at an increasing pace. For a large number of cultural heritage sites, it is

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<sup>28</sup> Species are placed in the red list category Data Deficient when the data basis is inadequate and the possible category covers everything from critically endangered to viable.

neither practically possible nor desirable to put in place measures against the natural and man-made degradation processes. Preventive maintenance measures are taken against degradation for some cultural remains.

A consequence of the increased traffic is that the cultural remains are more susceptible to trampling, wear and tear and illegal souvenir picking. Therefore, the traffic must be organised so that it does not lead to loss of cultural remains and the precautionary principle must govern the permitted activities. It requires knowledge to see the cultural-historical significance of many types of loose cultural remains in Svalbard, as well as being able to preserve them.

## 6. Sea-based tourism and traffic rules for everyone

### 6.1 The current regulations on sea-based tourism

Overall, the environmental regulations have few provisions that apply to tourism traffic at sea and for landings. Regulations that apply especially to tourism are the regulation of 14 landing localities in the Northeast Svalbard and Southeast Svalbard Nature Reserves and South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks. Before landing at these sites, tour operators must have drawn up site-specific guidelines<sup>29</sup>. The guidelines must specify how the access and passage on land shall take place to safeguard natural and cultural values on-site and specified provisions in the environmental regulations. The Governor of Svalbard supervises the guidelines.

For the Northeast Svalbard and Southeast Svalbard Nature Reserves, passengers ships calling at nature reserves can only have a maximum of 200 passengers on board. From 1 January 2022, it is prohibited for ships calling in territorial waters around Svalbard to have on board petroleum-based fuel with a higher density, viscosity or point of solidification than for marine gas oil, cf. new section 82a of the Svalbard Environmental Protection Act. This applies from 1 January 2024 for goods transport and bulk transport to and from Longyearbyen and Barentsburg. The current requirement for the use of DMA quality fuel in accordance with ISO 8217 Fuel Standard in the protected areas will be lifted when the general heavy oil ban comes into force. For further discussion in Section 8.7.

The main rule is otherwise that access on foot is permitted inside and outside the protected areas, both for individual visitors and organised groups. Access and passage is nevertheless regulated further in some areas. Areas where access and passage are prohibited are found in bird reserves during the nesting season in the 16 bird reserves and extending 300 metres out to sea<sup>30</sup>. Access and passage is also prohibited in two vulnerable shallow water areas in the eastern nature reserves and

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<sup>29</sup> Sections 5a and 21 of the Regulations relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard

<sup>30</sup> Section 31 of the same regulations (15 May-15 August)



that extends 500 metres out to sea<sup>31</sup>. In important polar bear den areas, access and passage is prohibited all year round and also extends 500 metres out to sea<sup>32</sup>. On Bjørnøya, access and passage are also prohibited in specific zones<sup>33</sup>.

Access and passage are also prohibited at Trollkjeldane and some cultural heritage sites<sup>34</sup>. Access to the cultural heritage site at Virgohamna requires an application for permission and today, only smaller groups are granted permission<sup>35</sup>.

Access and passage in specially established reference areas for research in Nordaustlandet and Edgeøya require notification to the Governor of Svalbard according to the protection regulations. The Governor of Svalbard may require that the tour programme is changed or prohibit access in the individual case if it is deemed necessary for the reference value.<sup>36</sup>

In other respects, section 73 of the Svalbard Environmental Protection Act states that all access and passage in Svalbard shall take place in a way that does not harm, pollute or in any other way damage the natural environment or cultural heritage sites or lead to unnecessary disturbance to humans or wildlife.

## 6.2 Status and development of sea-based tourism

### 6.2.1 Different types of sea-based tourism

Commercial sea-based tourism in Svalbard today includes day trips by boat, expedition cruises (including skiing and sailing trips) and overseas cruises.

Day trips by boat are arranged with Longyearbyen as a point of departure and have a limited range. This activity is mainly limited to Isfjorden. Organised tours often run between Longyearbyen, Barentsburg and Pyramiden, and in some cases to Ny-Ålesund. Trips to attractions such as haul-out sites for walruses are organised in Forlandet.

Expedition cruise ships include small sailboats, larger boats and ships with up to several hundred passengers. The operators are established enterprises from Norway and other countries. Expedition cruises are tours that last for a few days to over a week. Trips along the west coast of Spitsbergen and around Spitsbergen are the most common. On the tours, guests are brought ashore in different places to experience nature and culture, preferably 1-3 times per day. The guests are transported in smaller boats from the mother ship to shore, where they stay with guides in large or small groups, for a short or long period, depending on the number of passengers, the locality and the

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<sup>31</sup> Section 20 of the same regulations as above

<sup>32</sup> Section 17 of the same regulations above

<sup>33</sup> Section 9 of the Regulations on the Bjørnøya Nature Reserve

<sup>34</sup> Sections 5, 5b and 18 of the same regulations as in footnote 28

<sup>35</sup> Regulations relating to area protection and access to Virgohamna in Svalbard

<sup>36</sup> Section 19 of the same regulations as in footnote 28

purpose of the landing. The attractions they visit are most often wildlife or cultural heritage sites and the most popular landing sites are haul-out sites for walruses, bird cliffs and cultural heritage sites from the whaling era, mining operations, hunting stations and expeditions. The purpose of a landing may also be to take a longer trip inland, i.e., beyond the immediate proximity of the landing area.

Skiing and sailing trips are included in the expedition cruise statistics of the Governor of Svalbard and take place from smaller boats with ski touring as the main activity. Experiences of wildlife and cultural heritage sites, as well as stays and trips on land without ski touring, are also included in the tour programme. Unlike ordinary cruise tourism, skiing and sailing are not linked to fixed locations and landing sites. The operators plan the locations for ski touring on a day-to-day basis based on the snow conditions and where they find “untouched” mountainsides. The main season is April-June and it is primarily West Spitsbergen, where the topography is best for alpine ski touring, which is used. As a rule, the operators offer trips to several places around the world, of which Svalbard is one of many areas for such skiing and sailing trips.

Overseas cruise ships are cruise ships that have Svalbard as one of several destinations. For example, these ships can sail from the south of Europe and via the coast of Norway before arrival in Svalbard. These ships usually only call at Longyearbyen and sometimes a few other areas in Svalbard.

### **6.2.2 Developments in sea-based tourism**

The total number of tourist ships/boats is increasing and there is a shift towards more expedition-based cruise tourism, illustrated in Figure 2. The number of expedition cruise ships has increased from 23 ships in 2010 to 73 ships in 2019.<sup>37</sup> The total number of passengers on the expedition cruise ships has increased accordingly. A total of around 9,000 passengers were registered as participating on expedition cruise ships in 2010, 14,500 in 2015 and 23,500 in 2019. There are several new cruise ships on order - according to the global cruise ship order book,<sup>38</sup> there are around 30 new expedition cruise ships in the order book in the period up to 2023. Most of these ships have been certified for a maximum of 200 passengers per ship.

Overseas cruise ships, on the other hand, are fewer but have more passengers per boat and lead to an increase in the total number of visitors to Svalbard. In 2010, 26,500 passengers from such cruise ships were registered compared with 45,000 and 39,000 passengers in 2018 and 2019.

The number of boats offering day trips in Isfjorden is also increasing. In 2017, a total of six tour operators offered day trips to Isfjorden with a total of nine passenger ships (with a capacity for both

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<sup>37</sup> Statistics from the Governor of Svalbard

<sup>38</sup> DNV-GL (2020): Phase 2 – Assessment of possible regulations to reduce the strain from ships on the environment in protected areas. Report no. 2020-0918, Rev. 2

more than and less than 12 passengers) and in 2019, there was a total of eight tour operators with a total of 16 boats. The total number of passengers on board day-trip boats is also increasing, with 8,000 in 2010, almost 13,500 in 2015 and just over 28,000 in 2019.

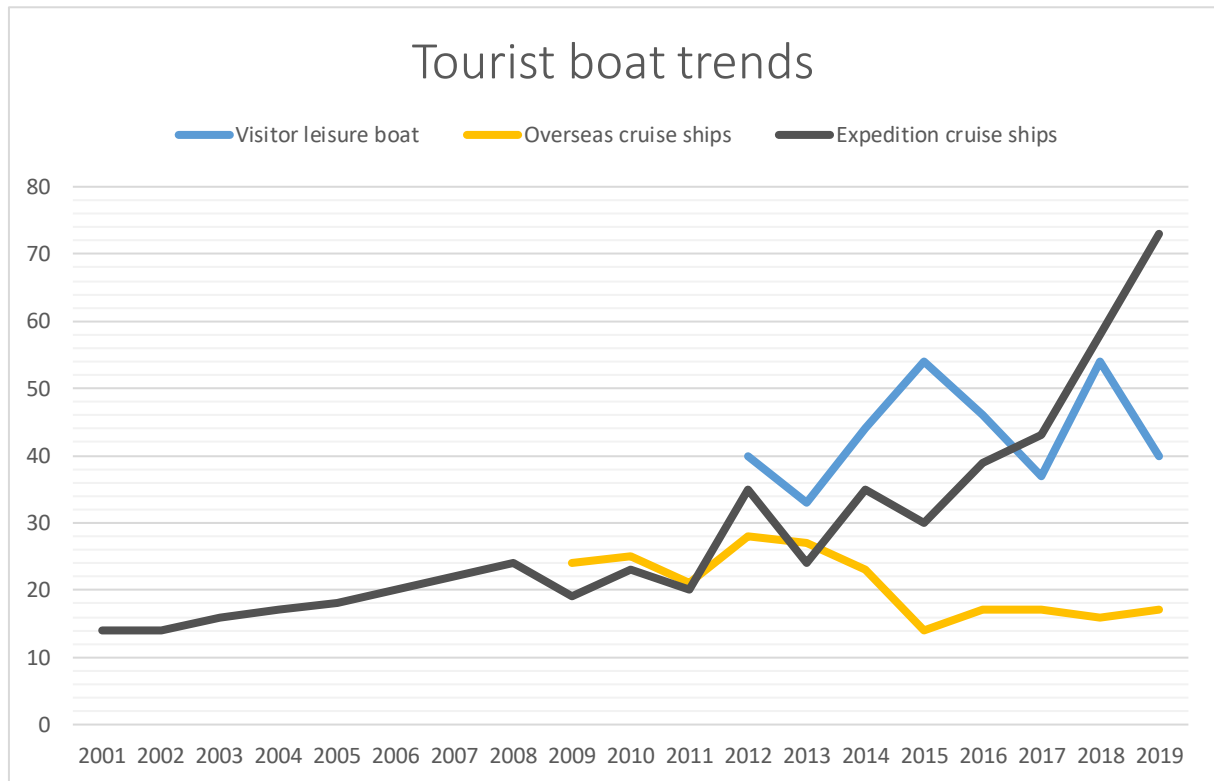


Figure 2. The number of ships divided into different categories of boat-based tourism in the period 2001 to 2019. Day-trip boats are not included here.

### 6.2.3 Number of landings and landing sites

In step with the increase in the number of tourist ships and tourists, there is an increase in the number of landings in wilderness areas in Svalbard, cf. Figure 3. The number of landings is an indication of the number of times people have gone ashore from boats outside the local communities<sup>39</sup>. The total number of registered landings at all the landing sites outside the local communities in 1996 was 29,600 and in 2019, the number increased to 124,000 landings<sup>40</sup>.

Based on the Governor of Svalbard's statistics, it is estimated that 12,289 landings in 2019 were from skiing and sailing trips, i.e., that this type of cruise accounts for around 10% of the landings compared with landings from traditional cruise trips.

<sup>39</sup> The same person can be counted several times if the person is set ashore in several places.

<sup>40</sup> Landings in the local communities have little environmental impact and therefore have not been included in these statistics.

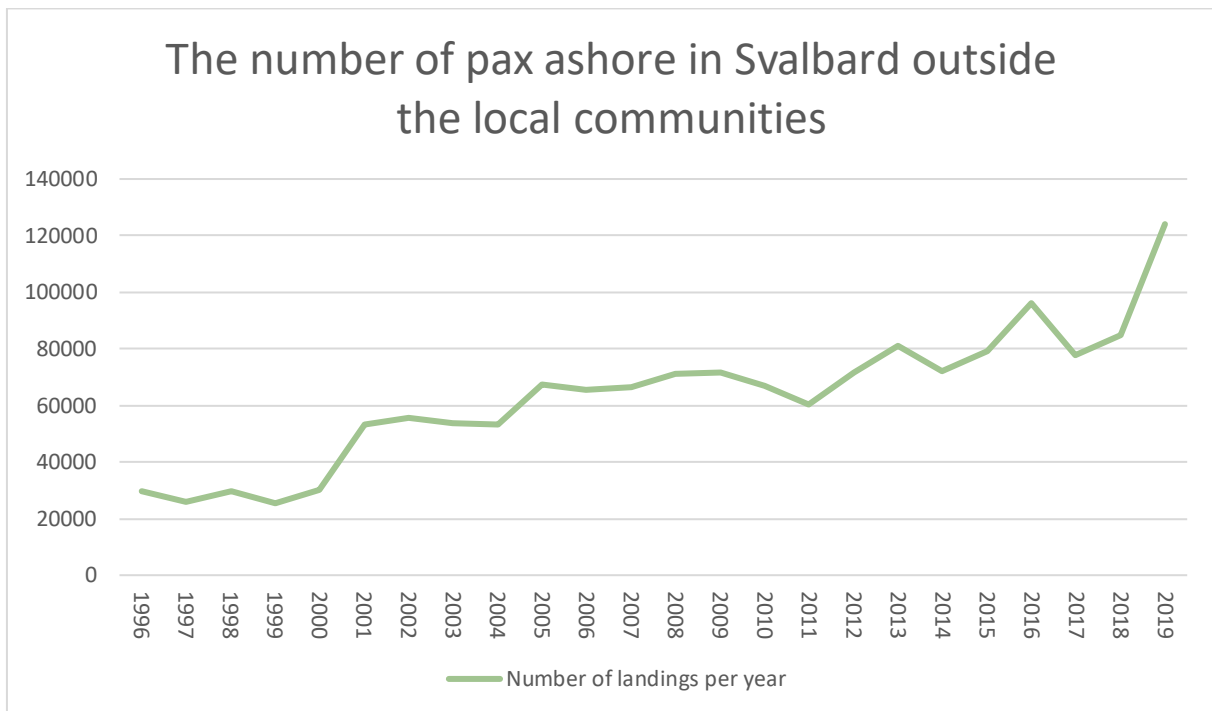
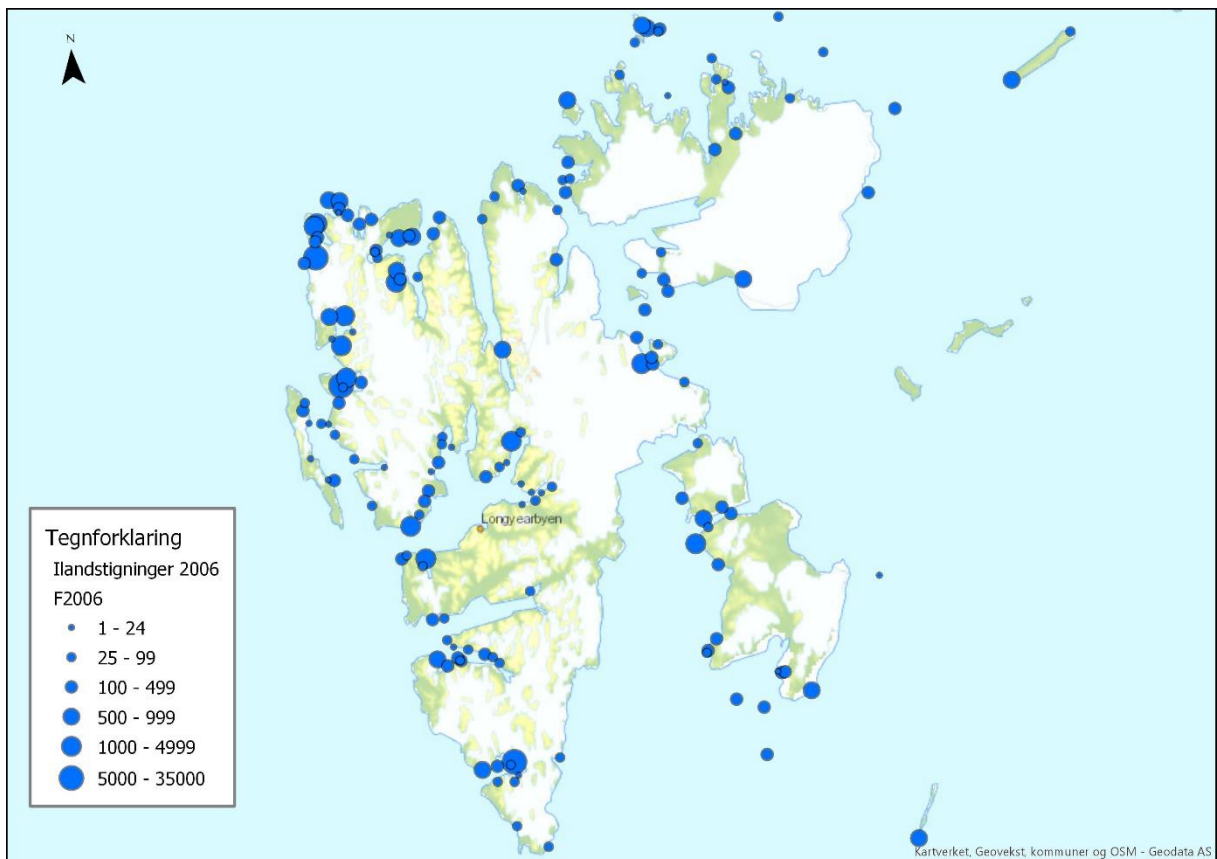
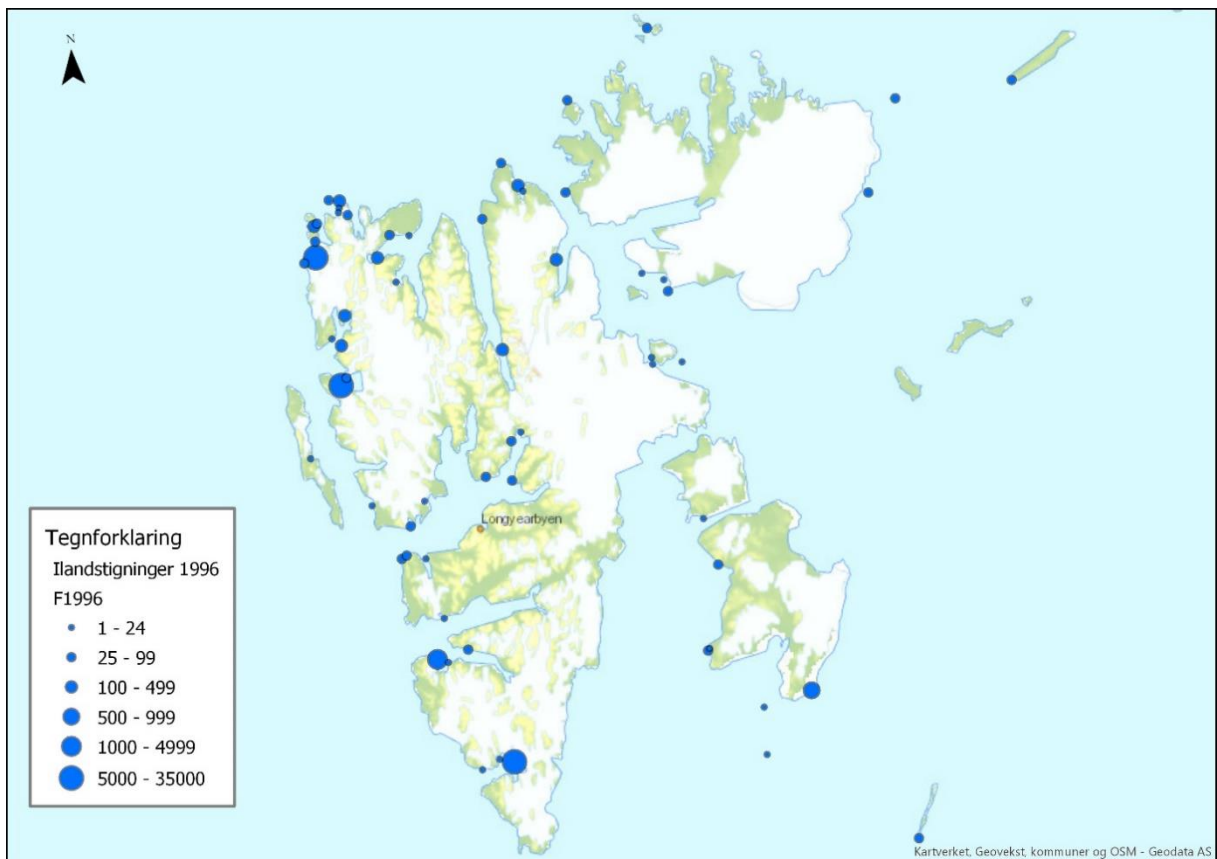


Figure 3. The number of landings outside the local communities in Svalbard. The figures do not directly reflect the number of visitors as visitors go ashore at several landing sites. The figures for 2019 are higher, there were no records from 7 landing localities. If you project the records from 2017 and 2018 on the missing sites, you can assume that there are 5,000 - 7,000 more landings in 2019. Source: The Governor of Svalbard.

An increase in expedition cruise tourism also affects *how many* sites on land are used for landing with tourists. In 1996, a total of 64 landing localities were used and in 2019, the figure quadrupled to 257 landing sites in used, see Figure 4. If you look at the developments over several years as a whole, the number of active landing localities (i.e., landing sites in use) is also significantly higher because all the localities are not necessarily used every year. The total number of registered landing sites in Svalbard are now more than 700.<sup>41</sup>

The desire to offer the increasing number of passengers an uninterrupted experience of untouched nature and at the same time not disturb other boats is believed to be the reason why new areas are being used for landing. Development in the skiing and sailing segment may also account for this increase in the number of active landing sites, since they use the areas in a different way than the more traditional expedition cruises. There are relatively many localities that have a high number of visits, see Figure 4.

<sup>41</sup> MOSJ Environmental monitoring of Svalbard and Jan Mayen



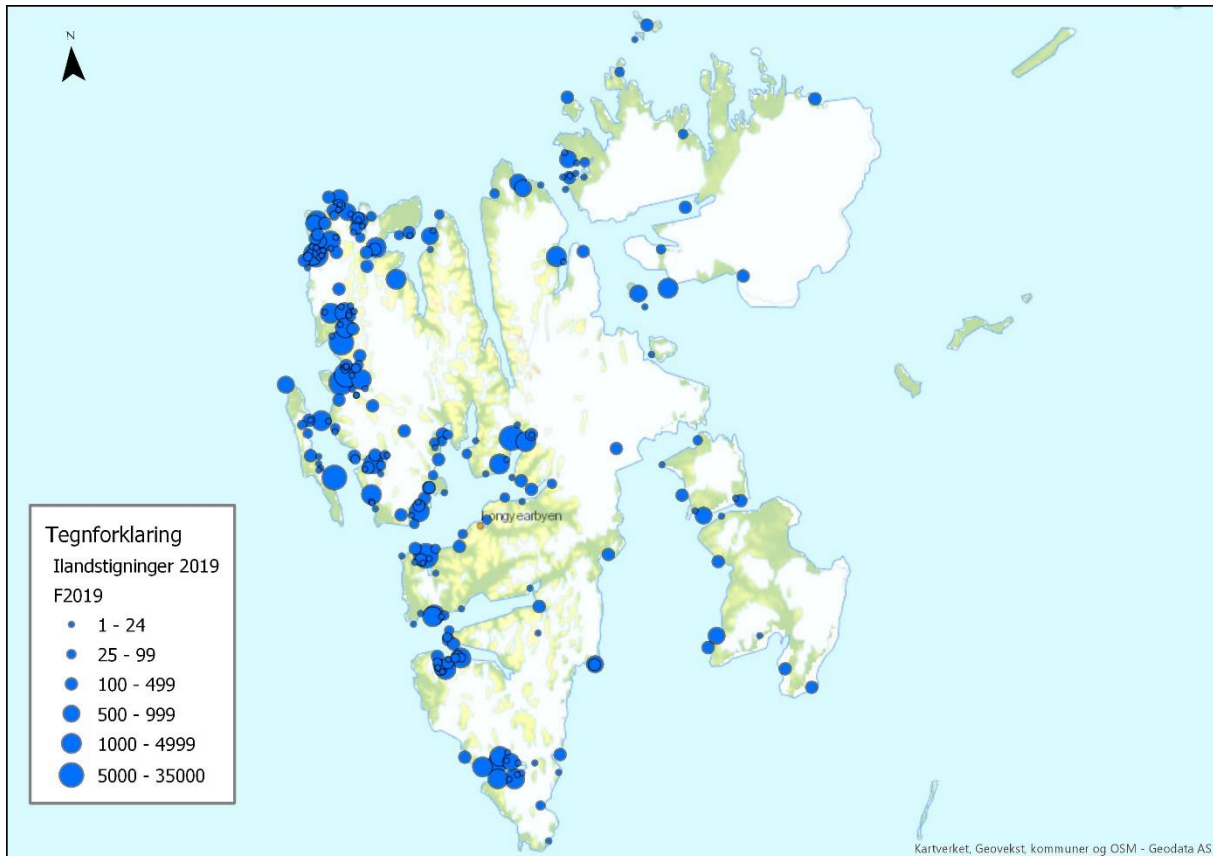


Figure 4. Landing sites in Svalbard. The size of the circle indicates the number of people ashore at the landing site. The chart shows landings in 1996, 2006 and 2019. In 2019, there were 50 localities with more than 500 landings and 33 landing sites with more than 1,000 registered landings. Source: The Governor of Svalbard.

#### 6.2.4 Presence/frequency of visits

In 2019, between 60 and 70% of the total ship traffic in the waters around Svalbard from passenger ships in the summer months June and July. Traffic from private vessels is in addition to this.

We have statistics showing the frequency of visits to popular places in addition to the statistics on landings at landing sites. The trend in recent years (apart from 2020 and 2021) seems to have been the daily presence of passenger ships in the summer season (including expedition cruise ships) in the most popular areas along the west coast of Svalbard such as Kongsfjorden, Krossfjorden and Magdalenefjorden. The figures from the Kystdatahuset database show that the fjord systems at Kongsfjorden and Krossfjorden were visited by 156 passenger ships during June and July 2019<sup>42</sup>. The figures also show that more than 60 boats<sup>43</sup> sailed into the Lilliehöök glacier at Krossfjorden in July

<sup>42</sup> Statistics from the Norwegian Coastal Administration's database Kystdatahuset.no. Passenger ships include overseas cruise ships and expedition cruises, including smaller boats such as sailboats in commercial traffic.

<sup>43</sup>The number includes all boats, including tourist boats, boats from permanent residents and researchers from AIS.



2019<sup>42</sup> and that the glacier front of the Monaco glacier at Liefdefjorden was visited by more than 40 boats during the same month.

### 6.3 The environmental impact of sea-based tourism

Commercial boat tourism in Svalbard is adventure tourism where visiting Arctic wildlife and cultural heritage sites are key activities. Tourist activities visit vulnerable cultural heritage sites and wildlife habitats that are important functional areas for survival and reproduction. The main tourism season coincides with the most vulnerable period for many species in the Arctic ecosystem. The impact on the natural and cultural environment arises from passenger ship traffic, use of small boats in connection with the passenger ships and traffic on land that takes upon landing.

The trends up to 2019 show a clear increase in traffic, both in the number of visitors and the number of landing sites, as described in Section 6.2. Overall, it must be expected that traffic, in step with the increase in tourism, will lead to increased disturbances to wildlife in the future.

The seabird colonies are attractive visitor destinations and many bird cliffs are frequented by boats and passenger ships. Heavy traffic at sea has created unfortunate incidents, e.g., in the area at Alkhorner and Trygghamna where, in 2019, the Governor of Svalbard urged ships to keep a good distance from the bird colony to avoid scaring birds from the nests. There have also been reports of disturbances of polar bears due to boats and passenger ships sailing too close, including polar bears foraging for food from whale carcasses being disturbed by small boats launched from passenger ships. The supervision that covers Svalbard is limited and the risk of discovery of such events is low as long they are not reported by others.

Landings also affect the vegetation, terrain and cultural remains. Path formations and traces of footprints at landing sites show that traffic affects the vegetation and moraine structures. Many landing sites with vegetated ground have traces of wear and tear to a greater or lesser extent. Given the natural conditions in Svalbard, such wear and tear is usually long-lasting.

Gravneset is one of the most visited places in Svalbard with a large burial ground from the whaling era in the 17th and 18th centuries and has been visited since the beginning of tourism in Svalbard. In 1979, the vegetation was worn away in large parts of the burial ground and the cultural structures were impacted by tourists with trampling and removal of objects, including from graves. In 1996, a fence was erected and the burial ground has been closed to access since 2002. The vegetation is in the process of being reestablished inside the burial ground but their paths are still visible today. Outside the fence, there has been free access and large parts of the vegetation are worn away.

The Ossian Sars Nature Reserve is an example of an area that has had a strong increase in the number of visitors: up to 2008, visitor numbers here were less than 300 landings a year, from 2013, this figure has increased to around 1,000. Today, there are clear signs of wear and tear in the area and there are some vegetation-free areas due to traffic. This illustrates that wear damage can occur relatively quickly after the use of the locality increases. Fagerbukta is another example of path formation in the terrain after a short period of use, the locality is registered with 0 visitors up to 2012, and after 2012 the number of visitors has been between 507 to 1,030 people a year.

## **6.4 Proposed regulation of landing in connection with tourist activities**

### **6.4.1 The need for regulation of landing in connection with tourist activities**

An objective has been set for Svalbard that flora, fauna and cultural remains that warrant protection shall be preserved virtually intact and the natural ecological processes and the biodiversity must be allowed to evolve practically undisturbed by human activities. The conditions in Svalbard give high vulnerability to wear and tear on the vegetation and terrain and for disturbances of wildlife. When traffic increases and new areas are used, more areas are exposed to impact. Existing scars and wear and tear on the terrain show this. New wear and tear is registered when using new landing sites, while at the same time amplifying the impact on the localities that have recurring visits. It must also be concluded that increased tourism in wilderness areas will in all probability lead to increased disturbance of wildlife, cf. the description of knowledge in Section 5. It must also be emphasised that climate change, in particular, puts the wildlife under greater pressure than before, as described initially. Considering declining populations, red list status and the threat picture for several of the species visited by organised tours, it is considered necessary to steer this traffic into more controlled forms, so that the risk of damage and impairment of the natural and cultural environment is reduced. The product from which the industry makes a living is a common good - Arctic wilderness - which is unique in a global context and which Norway has a responsibility to manage for future generations. Regulations that entail strengthened management and safeguarding the natural and cultural values in Svalbard are also decisive for what can be offered to future tourists to Svalbard.

Svalbard is one of the last wilderness areas in Europe and the high Arctic area of the world that is the most easily accessible to tourists. The increase in sea-based tourism, particularly cruise tourism, is leading to increased traffic in wilderness areas. The protected areas make up around 67% of the land area and a very large proportion of landings outside the local communities take place in the protected areas. The use of protected areas by tourism is currently poorly regulated beyond the access regulations that apply to everyone and less regulated than in protected areas on the mainland. On the mainland, there are restrictions on where and how you can use some protected areas. Activities such as organised traffic, events, organised horse riding and dog sledding are

regulated in many areas for the sake of conservation values in the relevant areas, e.g., through mandatory application.

The attractiveness of the Arctic is expected to increase in step with the increasing demand for nature-based tourism products. At the same time, the reduction in sea ice makes more areas accessible to passenger ships over a longer period and climate change increases the popularity of “last chance” tourism. What just two or three decades ago was a small tourist industry, has now grown rapidly and the regulations have lagged behind. Given the increases in volume and distribution of cruise tourism in the protected areas and the potential for further growth and diversification, it is considered necessary that the regulations set clearer limits for this industry and to a greater extent than today protect vulnerable areas and shield areas from heavy traffic. Therefore, there is a need to regulate landing in connection with tourist activities and staying on land in connection with landing in the protected areas.

#### **6.4.2 The main features of the proposal**

##### Prohibition against landings with exceptions

As a starting point, landing in connection with tourist activities is proposed to be prohibited in eight of the protected areas with specified exceptions. The protected areas proposed to be regulated are the Ossian Sars, Northeast Svalbard and Southeast Svalbard Nature Reserves and the South Spitsbergen, Forlandet, Northwest Spitsbergen, Van Mijenfjorden and Indre Wijdefjorden National Parks. Exempt from the ban are 42 mapped landing sites in the Northeast Svalbard and Southeast Svalbard Nature Reserves and the South Spitsbergen, Forlandet, Northwest Spitsbergen and Van Mijenfjorden National Parks. The landing sites that can be used are listed in Annex 8 of the consultation paper and are shown on the maps included as annexes to the amendment regulations for the protected areas, see Annex 4 and 5 of the consultation paper. The ban is proposed not to apply to snow-covered and frozen ground from 1 January to 25 May in South Spitsbergen, Forlandet, Northwest Spitsbergen and Van Milenfjorden National Parks. A condition for landing is that it must take place together with a guide who has knowledge of the natural and cultural environment.

No landing sites are proposed in Indre Wijdefjorden National Park. There are currently few visits to the national park and it is used very little for landings from boats on organised tours, probably due to the long distances. Since 2015, only one landing site has been registered in the national park - Austfjordnes - which was last visited in 2017. Austfjordnes has had a total of 28 landings in the last five years. Thus Indre Wijdefjorden National Park is little affected by human traffic and more untouched than other areas. These considerations collectively justify that the national park is not opened for landing in connection with tourist activities. However, the outer parts of Wijdefjorden outside the national park may be freely used for landing within the framework of the other regulations.

Landing sites at the Ossian Sars Nature Reserve are also not proposed. This is an area with lush vegetation with several rare and demanding species and these are extremely vulnerable to traffic. The largest bird cliff is also situated in the nature reserve at Kongsfjorden. Based on the substantial natural and conservation values in this reserve, it is not recommended that Ossian Sars is opened for landing in connection with tourist activities.

In the Sassen-Bunsow Land and Nordre Isfjorden National Parks, the Moffen, Hopen and Bjørnøya Nature Reserves, Festningen geotope conservation and the bird reserves<sup>44</sup>, landing in connection with tourist activities will be permitted when the regulations otherwise do not preclude this. The same applies to landing in connection with tourist activities outside the protected areas.

#### Access and passage on land in connection with landing for organised tours

For the localities at Ytre Norskeøya and Smeerenburg in the Northwest Spitsbergen National Park, as well as the localities at Ahlstrandhalvøya-Bamsebu, Gåshamna east, Gnålodden and Asbestodden in the South Spitsbergen National Park, it is proposed to limit where access and passage on land can take place when landing in connection with tourist activities<sup>45</sup>. The same is proposed for Vårsolbukta in the Van Mijenfjorden National Park<sup>46</sup>. This is proposed to shield sub-areas of the locality that are particularly vulnerable to the impact of traffic. The other landing sites do not have such restrictions about access and passage on land after landing, and can be used as a starting point for organised tours on foot or on skis further inland. However, a general provision is proposed on how access and passage should take place that applies to all traffic in the protected areas (see Section 6.7).

#### Limitation on numbers

A limitation on numbers, which means that a maximum of 39 people can go ashore at a time, is proposed for the localities that have the least tolerance for many people going ashore at the same time. The limitation on numbers is proposed to apply to 13 localities and is also set here to keep these localities open for visits. One of these is Virgohamna, where according to the proposal the current application obligation is avoided. Another is Habenichtbukta, which currently has a prohibition against traffic (see Section 6.5.2).

#### To whom the proposals apply

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<sup>44</sup> Listed in Section 3 of the Regulations on the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard nature reserves and the bird reserves in Svalbard. These nature reserves already have a prohibition against access and passage in the period 15 May to 15 August.

<sup>45</sup> The areas are stated in a new Annex 6 to Regulation no. 377 of 4 April 2014 relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen national parks, the Northeast Svalbard and Southeast Svalbard nature reserves and the bird reserves in Svalbard

<sup>46</sup> The area is stated in a new Annex 3 to Regulation no. 1980 of 18 June 2021 relating to Van Mijenfjorden National Park in Svalbard.

These proposals only apply to tourist activities and not to others who go ashore, e.g., researchers, individual travellers and permanent residents. Tourist activities mean the same as the definition of tourist activities in section 2 a, letter b of the Regulations relating to camping activities in Svalbard. In the Regulations relating to camping activities in Svalbard, tourist activities are defined as “any natural or legal person who, for a fee, organises traffic, activity or accommodation with associated services or transport of people on land or sea within Svalbard or where their stay in Svalbard is otherwise organised for tourist purposes. Remuneration also includes payment that is made to cover actual expenses without a profit being calculated.” “Tourist activities” also includes all forms of tourism. Permanent residents do not come under the definition if they travel on their own but they do come under if they participate in organised tourism. The definition is coordinated with proposals for new field safety regulations that have been circulated for consultation.

#### Delimitation of the landing regulations

The proposals for regulating landing and access and passage on land do not entail a general prohibition against traffic for tourist activities. The regulation only covers landing and access and passage on land in connection with landings in sea-based tourism. Traffic associated with tourist activities in the protected areas that takes place using snowmobiles, on skis or in any other way is not covered.

In connection with landing, tourists will be able to make trips on foot or skis inland from the landing sites where traffic on land is not limited to a particular area.

#### General provisions on traffic

At the same time, a general provision is proposed on how all access and passage on land should take place with respect to the natural and cultural environment. It is proposed that the provision is included in all protection regulations so that it will apply in all the protected areas in Svalbard. It is proposed that the provision applies to all access and passage in the protected areas, not just under the auspices of tourist activities (and when landing from boats) but also for individual travellers, researchers and permanent residents. This proposal is discussed in more detail in Section 6.7.

#### A landing provision in the protection regulations

The prohibition against landing and regulation of permitted landing sites is proposed to be laid down as a separate provision in the individual protection regulations.

In protected areas with landing sites (for tourist activities), the maps attached to the regulations will show how organised tours can go ashore with passengers and whether there are restrictions on where access and passage on land can take place or how many people can go ashore at the time. This is a rule-making system that has similarities to the regulation of motor traffic in Svalbard.

The landing provision is proposed to be included in sections 5a and 21 of Regulation no. 377 of 4 April 2014 relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard, in section 4b of Regulation no. 1980 of 18 June 2021 relating to the Van Mijenfjorden National Park in Svalbard, section 4, subsection 4.5 of Regulation no. 1188 of 26 September 2003 relating to the conservation of the Ossian Sars Nature Reserve and in Section 4, subsection 4.2 of Regulation no. 1046 of 9 September 2005 relating to the conservation of Indre Wijdefjorden National Park in Svalbard. The proposed wording for the individual protected areas is shown in the text box below.

The Northeast Svalbard and Southeast Svalbard Nature Reserves:

**Section 21. *Landing and staying on land in connection with tourist activities***

Landings in connection with tourist activities and staying on land in connection with such landings are prohibited in the nature reserves.

The prohibition does not apply in areas marked with a green or blue line on the map in Annex 6 showing the permitted landing area.

Landing and staying on land according to this provision can only take place together with a guide with knowledge about the natural and cultural environment.

For landing and staying on land in areas marked with a blue line, there shall be one guide for every 12 people and a maximum of 39 people ashore at the same time

Tourist activities mean tourist activities as defined in section 2a, letter b) of Regulation no. 731 of 27 June 2002 relating to camping activities in Svalbard.

Forlandet, South Spitsbergen and Northwest Spitsbergen National Parks

**Section 5a. *Landing and staying on land in connection with tourist activities***

*Landing in connection with tourist activities and staying on land in connection with such landings are prohibited in the national parks.*

*The prohibition does not apply*

*a) on snow-covered and frozen ground from 1 January to 25 May each year,*

*b) in areas marked with a green or blue line on the map in Annex 6 showing permitted landing areas,*

*c) in areas hatched in green or blue on the map in Annex 6 showing permitted landing areas and limits for permitted access and passage on land in connection with landing.*

*Landing and staying on land according to this provision can only take place together with a guide with knowledge about the natural and cultural environment.*

*For landing and passage on land in areas marked with a blue line or a blue hatched area, there shall be one guide for every 12 people and a maximum of 39 people ashore at the same time*

*Tourist activities mean tourist activities as defined in section 2a, letter b) of Regulation no. 731 of 27 June 2002 relating to camping activities in Svalbard.*



Van Mijenfjorden National Park:

**Section 4b. Landing and staying on land in connection with tourist activities**

*Landing in connection with tourist activities and staying on land in connection with such landing are prohibited.*

*The prohibition does not apply*

*a) on snow-covered and frozen ground from 1 January to 25 May each year,*

*b) in the area hatched in green on the maps in Annex 5 showing the permitted landing area and limits for permitted access and passage on land in connection with landing.*

*Landing and staying on land according to this provision can only take place together with a guide with knowledge about the natural and cultural environment.*

*Tourist activities mean tourist activities as defined in section 2a, letter b) of Regulation no. 731 of 27 June 2002 relating to camping activities in Svalbard.*

Ossian Sars Nature Reserve and Indre Wijdefjorden National Park:

*Landing in connection with tourist activities is prohibited.*

#### **6.4.3 Reasons**

The purpose of the amendment is to limit the disturbance of wildlife and wear and tear on the natural environment and cultural heritage sites. The UN Intergovernmental Panel on Climate Change (IPCC) points out in its latest report that climate change is developing faster than first thought. The temperatures in the Arctic are rising more than twice as fast as the global average and Svalbard is among the parts of the Arctic where the temperatures are rising fastest. Climate change makes the terrain, vegetation, wildlife and cultural heritage sites more vulnerable to traffic than before, as described in Section 5. At the same time, access and passage in the protected areas have increased rapidly and have spread to an increasing number of areas. Rapid climate change in combination with increased traffic leads to increased cumulative environmental effects making it more difficult to achieve the objective of preserving the unique Arctic wilderness. Therefore, there is a need for measures to shield large parts of the protected areas from negative influencing factors.

Landing in connection with tourist activities represents the greatest pressure from traffic outside Isfjorden. Landings mainly take place in the bare ground season on vegetation that to a large extent has poor resistance and re-growth capacity. Clear signs of traffic in the terrain are already seen in many places and climate change with increased pre' and decreasing permafrost is expected to exacerbate the situation.

Climate change also makes cultural heritage sites more vulnerable by making them more easily broken down and disappearing. Increased traffic due to landings has exacerbated the threat of cultural heritage sites being exposed to trampling and other wear and tear, as well as illegal souvenir picking.

The wildlife and especially the ice-dependent species are also adversely affected by a warmer climate and the reduction of sea ice. The Norwegian Red List for Species<sup>47</sup> shows that the long-term survival of the high Arctic species is under threat. Therefore, an objective is to limit the negative influencing factors such as disturbance from traffic that can contribute to deteriorating habitats and that species avoid using important habitats.<sup>48 49</sup>.

Through the regulation of where landing in connection with tourist activities can take place, we will ensure that larger areas are protected from the adverse effects of tourism. Fewer land areas will then be exposed to wear and tear to vegetation and cultural remains and large geographical areas can be protected from disturbances to the wildlife. The regulation ensures that the traffic is channelled to selected localities and prevents new, untouched areas from being used and affected. By directing traffic to areas that are either robust enough to withstand this or where the traffic has already led to established paths, tracks, etc., the potential for damage to the open localities is reduced and untouched wilderness areas can be preserved for the future. The proposal will also provide a better overview of the traffic patterns and the impact of traffic in the open areas and thereby the possibility of better control of the state of the environment through monitoring where traffic takes place.

Implementing the regulation in areas that are protected will increase the protection of these areas and also contribute to the purpose of the protected areas being taken care of to a greater extent. The protected areas are areas particularly worthy of protection and subject to regulation to safeguard these values. Regulation of the right to land here is considered necessary to counteract the effects of traffic that has increased significantly after the protection provisions were laid down.

Although landings also lead to increased wear and tear and disturbances outside the protected areas, the purposes of the protected areas indicate that the need for regulation is greatest there. In most of the protected areas, the purpose of protection is to preserve large, continuous and essentially untouched natural areas on land and in the sea with intact habitats, ecosystems, species, natural ecological processes, landscape, cultural heritage sites and cultural environments.

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<sup>47</sup> Henriksen S. og Hilmo O. (ed.) 2015. Norwegian Red List of Species 2015. Artsdatabanken, Norway

<sup>48</sup> Jansen J.K. et al. (2010) *Reaction of Harbour Seals to Cruise Ships*. Journal of Wildlife Management 74 (6):1186–1194.

<sup>49</sup> Velando & Munilla. 2011. *Disturbance to a foraging seabird by sea-based tourism: Implications for reserve management in marine protected areas*. Biological Conservation 144: 1167-1174

The areas are also important as reference areas for research. Section 16 of the Svalbard Environment Protection Act allows for the regulation of all activities that may affect or disturb the natural environment or cultural heritage sites in the national parks. Nature reserves can be preserved unconditionally, cf. section 17 of the Svalbard Environmental Protection Act.

At the same time as the protected areas need better protection against the impact of traffic, they are also important for experiencing Svalbard's natural and cultural heritage, especially the national parks. The proposal has been formulated to take care of this but within the framework of the protection provisions and the purpose of the protected areas.

The proposed differentiated regulation of the landing in connection with tourist activities, where there are restrictions on how many people can go ashore at the same time and on where access and passage on land can take place, mean that several localities that are considered attractive to tourism can be kept open despite the vulnerability of the areas.

For the sake of the tourism industry, it is proposed that the landing regulation is not introduced in the protected areas in Isfjorden, i.e., Nordre Isfjorden National Park, Sassen-Bünsow Land National Park and the Festningen Geotope Protection Area. As a rule, this means that landing in connection with tourist activities will be permitted throughout Isfjorden. However, an important limitation here is the current ban on access and passage in bird reserves where access and passage are forbidden on land and at sea in the period 15 May to 15 August<sup>50</sup>.

With the proposed regulation, larges areas will still be available to experience nature. In the protected areas not covered by the regulation, organised tours will be able to make landings as they do today. At the same time, it must be emphasised that several localities in the national parks in Isfjorden have been documented as vulnerable through previous assessments made. Examples of this are Trygghamna, Brucebyen, Coraholmen, Flinholmen and Svenskehuset. So that the natural and cultural values at these sites remain for the future, sufficient consideration must also be given to the natural and cultural environment and developments must be monitored.

The Bjørnøya and Hopen nature reserves are considered to be in a unique position compared with the other protected areas and therefore, are not proposed to be covered by the landing regulations. Landing on Bjørnøya can only take place in limited areas due to the topographical conditions on the island and traffic from tourism is therefore limited to these few areas. There are currently relatively few landings in connection with tourism at Hopen and it is considered unlikely that this will increase due to the location of the island. Therefore, following an overall assessment, we do

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<sup>50</sup> Section 31 of Regulation no. 399 of 4 April 2014.

not consider it necessary to introduce such a landing regulation on the Bjørnøya and Hopen Nature Reserves.

The proposal does not apply to permanent residents and individual visitors, who will be able to go ashore as before. Such landings have less scope and thus also put less pressure on the environment in the protected areas. By ensuring that traffic by permanent residents is not restricted by the provisions, consideration is also given to the fact that the protected areas should be publicly available, as far as this is compatible with the purpose of protection.

#### **6.4.4 The selection of landing sites**

In total, it is proposed to open 42 sites in the protected areas for landing in connection with tourist activities. The selected landing sites for tourist activities are proposed based on the Governor of Svalbard's assessments.

Emphasis is placed on the following in the selection of sites that can be used for tourist activities:

- that the sites shall be attractive to the tourism industry and offer variations in the quality of experience
- the vulnerability of the natural and cultural environment to traffic
- that there shall be a sufficient number of landing sites
- that the sites shall have a good geographical distribution
- that there shall be fewer sites in the nature reserves of Eastern Svalbard

The most attractive landing sites for tourism are considered to be the most commonly used sites. Therefore, the selection has been based on sites in protected areas that have more than 500 landings in 2018 and 2019, which is 36 and 33 sites. Sites have been added that are considered to be less vulnerable and that can be opened for landing in connection with tourist activities. Based on the knowledge we have about these, a total of 42 sites within the protected areas are proposed to be open for tourist activities on more detailed terms.

Vulnerability assessments have been carried out for many of the most commonly used areas by various actors, including the Governor of Svalbard and also external consultants; The Norwegian Institute for Nature Research (NINA) and Ecofact, in the period 2008-2013. The Governor of Svalbard also conducted new vulnerability assessments in the summer of 2020, covering most of the proposed landing sites. Based on these assessments, consideration for good geographical distribution, the attractiveness of the site for tourism and consideration for having a sufficient number of landing sites, an overall assessment has been made of which sites can be kept open to traffic without restrictions, only with a limitation in numbers and only with a limit on where access and passage can take place. Many of the selected sites will have vulnerable elements which also make the site attractive, such as a cultural heritage site, walrus colony, bird cliffs, etc.

To reduce the impact of traffic, a strategy has been chosen where sites that are already affected by wear and tear or disturbance are continued to be used rather than opening new areas to traffic. Nevertheless, the vulnerability assessments are actively used to determine the need to limit the numbers or geographical delimitation of the landing site and the traffic there (see Section 6.4.6). Particularly vulnerable sites have not been proposed as landing sites, including Ossian Sars.

In addition to limiting where landing can take place, there is a need for a more detailed framework for how traffic on land in the selected areas shall take place to avoid deterioration of the natural and cultural environment. There is a need for requirements for landing in connection with tourist activities in general (discussed in the following Section 6.4.5) and special regulatory needs related to the vulnerability of certain localities (Section 6.4.6).

#### **6.4.5 General requirements in the landing sites**

##### Use of a guide

Most tour operators currently use a guide when landing in connection with tourist activities. In practice, the guide's knowledge of the natural and cultural environment and the regulations will be important for ensuring that the traffic causes the least possible disturbance and damage to the vegetation, wildlife and cultural heritage sites. The requirement for the use of a guide when landing in connection with tourist activities is practised today when permission is granted for landing and access to Virgohamna<sup>51</sup>, but is not required at other landing sites as here you can go ashore freely without an application.

Section 5, second paragraph of the Svalbard Environmental Protection Act and section 5 of the Tourist Regulations require that tour operators and employees shall be familiar with the regulations laid down to protect Svalbard's flora, fauna, cultural heritage sites and natural environment in general. Knowledge is also required to be able to ensure that the access and passage meet the requirements for due care according to section 73 of the Svalbard Environmental Protection Act.

There is currently no certification scheme<sup>52</sup> or other requirements for working as a guide in Svalbard but a guide certification scheme has been proposed in the proposed new field safety regulations that are under consultation. If the proposed guide certification scheme for Svalbard is adopted, the requirement will also apply to landings.

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<sup>51</sup> [Regulations relating to area protection and access to Virgohamna in Svalbard](#). According to the Governor of Svalbard's practice, such permission is granted to tour groups of up to 12 people together with a guide who has sufficient knowledge about the location. According to this practice, landing is further restricted in that only three such guided groups can be on land at the same time.

<sup>52</sup> However, there are various internal training programmes, as well as opportunities to take a one-year education programme at UiT as an "Arctic Nature Guide", but there are no established educational requirements for guides.

Until further notice, and possibly until such a certification scheme is implemented, a requirement is proposed for the use of guides who are familiar with the natural and cultural environment in Svalbard when disembarking in connection with tourist activities. Such expertise is considered a reasonable requirement considering the provision of the Svalbard Environmental Protection Act and the requirement for access and passage with due care. The requirement for the guide's knowledge and expertise is not considered a major change in relation to the current requirements according to sections 5 and 73 of the Svalbard Environmental Protection Act and section 5 of the Tourist Regulations. The requirement that landing can only take place together with a guide who is familiar with the natural and cultural environment is new and thus a stricter regulation, even though this is largely according to current practice.

#### Requirements for access and passage to avoid wear and tear and disturbance

As a general rule, no restriction is proposed on the right to travel inland after going ashore at the landing site, except for 6 areas where access and passage on land are limited to a specific area, read about this in more detail in section 6.4.6 below.

The strain on the open landing sites can be expected to increase due to the proposal, especially in the form of wear and tear on the terrain and cultural remains at the site. However, we consider a far better solution to channel access and passage to areas that are already affected through the formation of paths and wear and tear, rather than to use and degrade several areas. Paths that have already formed can be used by the tourism industry and by using these further formation of paths in vulnerable areas can be avoided or limited. To ensure that the open landing sites for tourism are taken care of to the greatest extent and to avoid further wear and tear, it is proposed to set specific requirements for access and passage in line with the requirements according to section 73, second paragraph of the Svalbard Environmental Protection Act. Since such requirements for access and passage should apply in general in the protected areas and to everyone, the provision is proposed to be included in all protection regulations. Compliance with this for landing for tourist activities will in practice be very important for ensuring that the natural and cultural environment at the sites is protected. The proposal is discussed in more detail in Section 6.7.

#### **6.4.6 Special requirements at some landing sites**

##### Geographical delimitation of access and passage on land

It is proposed that 7 landing sites are limited further where access and passage on land can take place. The proposed delimitation is shown in maps in the new Annex 6 of the Regulations relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard and the maps in the new Annex 3 of the Regulations relating to the Van Mijenfjorden National Park in Svalbard.

The purpose of limiting traffic from tourist activities in these areas is to prevent high traffic pressure in vulnerable areas that are close to the landing site. By limiting access and passage on land it is possible to prevent further wear and tear on vulnerable vegetation, cultural remains and disturbances of wildlife, while at the same time allowing the tourist industry to use attractions at the defined site.

#### A limit on the number of people ashore at the same time

A limit on number is proposed for 13 of the sites, which means that the number of people ashore at the same time cannot exceed 39 persons and that there shall be at least 1 guide per group of 12 passengers. The sites are shown on the maps in Annex 6 of the Regulations relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves, and the bird reserves in Svalbard (the same Annex as stated above). These areas have rich natural or cultural heritage values that can be experienced and communicated but the natural and cultural environment require extra protection due to cultural remains that can easily be overlooked, vulnerable wildlife and areas with vulnerable vegetation from which traffic must be directed away. The limit on numbers will help to reduce the risk of negative impact by traffic in these vulnerable areas and means that the areas can still be kept open to some traffic.

Tender boats used to transport passengers usually have a capacity of up to 12 passengers. The proposal means that 3 groups of a maximum of 12 passengers per group and with at least 1 guide per group can go ashore and travel on land at the same time in these areas. This is according to the permits currently granted for landing in Virgohamna. The guide will then be able to manage the traffic on land, which is easier with a small group compared with a large group and with fewer people ashore at the same time (particularly where the attractions in the area are gathered in a small area). At sites with special environmental values related to vegetation, cultural heritage or geology it is desirable to limit the effects of wear and tear as far as possible. By limiting the number of people who are shore at the same time, traffic can be direct to robust areas of the site. The limit on number is considered to be a mitigation measure at sites which in principle will not tolerate excessive traffic, but which due to the restriction may nevertheless be kept open.

### **6.4.7 Consequences of the proposal**

#### Consequences for the natural and cultural environment

The regulation will protect land areas from the impact of traffic from tourism and channel the traffic to selected locations. This will prevent new, untouched areas from being used and affected, thus preserving pristine wilderness areas for the future. By directing the traffic to areas that are either robust enough to withstand this or where the traffic has already led to established paths, tracks, etc., as well as setting requirements for access and passage, the potential for damage to the open sites is reduced. This helps to prevent attractions and commemorative value from deteriorating so that they are preserved for future generations. The proposal also provides a better overview of traffic patterns and the impact of traffic in the open areas and thus the possibility for



better control of the state of the environment through monitoring where the traffic takes place. With fewer landing areas in the protected areas, supervision and environmental monitoring will be easier than today.

The prohibition against embarkation may also increase the pressure on the 42 areas that can be used. The requirement for qualified guides will lead to greater certainty that the requirement for access and passage with due care is met. The regulations with requirements for access and passage as discussed in Section 6.7 are expected to help traffic to keep to paths and areas where there is already wear and tear, so that new paths and wear and tear are created to a lesser extent. By including a requirement for keeping a safe distance from wildlife to avoid disturbances, the duty of care is sharpened and this can provide better protection against disturbances. Similarly, a requirement to keep a sufficient distance from cultural heritage sites will provide better protection against damage from trampling, etc.

At the same time, there is uncertainty as to whether the proposed landing requirements are sufficient to reduce the strain on the open sites if these are exposed to increased traffic. In Section 6.6, we propose to set a ceiling of 200 for the number of passengers on ships in all protected areas. This will limit the potential for increased landings in that large overseas cruise ships will not be able to use the areas in the future. Monitoring of traffic and the natural and cultural environment at the landing sites should be initiated to monitor developments.

There is also uncertainty related to how the development in traffic will be in the areas not proposed to be covered by the landing ban. This particularly applies to Isfjorden where there are currently also nature conservation areas and other vulnerable areas, and which may be experiencing pressure from traffic. The effects will largely depend on how the tourist industry adapts to the new regulations and how the development in the traffic pattern will be as a result. Other proposed regulations on the protection of birds and wildlife will provide better protection than the current regulations but are unlikely to sufficiently limit the environmental impact if there is a significant increase in traffic in these areas. Therefore, the development must be monitored closely in Isfjorden and other areas that are not covered by the regulation.

#### Consequences for tourist activities

The regulation of which areas can be used for landing in connection with tourism will provide less flexibility for tourist activities compared with the current regulations, where the main rule is that landing can take place in most areas. The growth in expedition cruise tourism, in particular, will be affected by the amendments. Day trips organised from Longyearbyen are usually limited to the Isfjorden area, which is not covered by the regulations, and overseas cruise ships mainly call at Longyearbyen (see Section 6.2). In a restructuring phase, the regulations will require changes to existing tour arrangements for the expedition cruise ships where these do not comply with the

proposal, e.g., where other sites than those permitted have been used. Some use of resources will have to be expected in connection with this. For Virgohamna, which is proposed to be opened with no application for permission required, the proposal will entail a resource-saving while allowing the site to be used more flexibly.

The regulations may limit the future development of new tour arrangements. At the same time, the industry lives off an Arctic wilderness that is unique in a global context and the proposals are considered to take care of and maintain the tourism industry's foundation for nature-based tourism in the long term.

With the 42 open locations, tour operators will still be able to offer landing and experience of nature in Svalbard in different market segments. Emphasis has been placed on it still being possible to visit the most attractive sites, so that the vast majority of frequently used sites are continued in the proposal, with the addition of Habenichtbukta, which will be open and where there is currently a prohibition against access and passage (Section 6.5.2). Thus, the expedition cruise ships will still have many areas to use, although it will not be possible to go ashore everywhere. A one week trip may require 1-3 landing sites per day and the proposal means that this need can still be met and is also considered to allow for undisturbed experiences. This also applies in relation to the difficulties variations in the weather, wind and waves can create for some landing sites, in that the proposal has sites that are close to each other and can alternatively be used in difficult conditions. In addition to using the permitted landing areas, organised tours can go ashore throughout Isfjorden, other areas outside protected areas and protected areas that are not covered by the regulations. Based on this, the proposals address the need for sufficient landing sites for traditional expedition cruise activity.

Exceptions from the regulations have been made for landing and access and passage on snow-covered and frozen ground in the period 1 January to 25 May in Forlandet, Northwest Spitsbergen, South Spitsbergen and Van Mijenfjorden National Parks. This means that skiing and sailing trips, which are carried out through going ashore on the west side of Spitsbergen in April and May can mainly be continued within these protected areas. Landing for skiing and sailing activities may also take place in Isfjorden and other areas that are not proposed to be regulated.

The number limit of 39 people proposed for 13 of the 42 sites will involve changes for tour operators who have a large number of passengers on board than are allowed to go ashore at the same time. Nearby disembarkation sites with no limit on the number of people have been proposed to be used for these. The limit on the number of people can increase the exclusivity of these sites for small parties of tourists.

In 6 areas, access and passage on land must take place within a defined area, which entails a restriction of any long trips on land. As the tourist attraction will mainly be located at the site where traffic is permitted, the needs of most tour operators will be taken care of even if no traffic is permitted outside the allocated area. There are also 36 landing sites that do not have such restrictions on traffic on land and can be freely used for tourist activities as a starting point for hiking or skiing inland in the relevant protected areas.

The use of a guide is currently common when sending tourists ashore and a regulatory requirement for this will therefore be in line with established practice for most actors. The guide requirement will entail a cost for the few tour operators who do not currently have such guides or who use fewer guides than are required for going ashore in areas with a limitation on the number of visitors. Where guides do not currently have sufficient knowledge of the regulations and access and passage with due care, this will entail costs in connection with training for the employer.

#### Consequences for the local communities

The proposals for restrictions on where landing in connection with tourist activities is permitted do not include the Isfjorden area or the areas around the local communities nor do they change the framework for tourism activity in these areas. In our opinion, the proposal will also not limit the volume of expedition cruise traffic in the protected areas in a way that will have a significant impact on this activity's contribution to activities and employment in Longyearbyen. Permanent residents and their opportunity to access the protected areas as individual visitors will also not be affected. Based on this, the consequences for the local communities in Svalbard are considered to be limited.

#### Consequences for land-based tour arrangements

Landing only includes landing from the sea in connection with tourist activities. Therefore, the provision on landing does not regulate the access tour operators have to use the same areas when this occurs in a different way than when disembarking at sea, e.g. by skiing or driving a snowmobile. However, this requires that the necessary permits have been obtained according to other regulations and any provisions in the protection regulations. However, the general access and passage provision does not apply everywhere in all the protected areas.

## **6.5 Amendments due to the landing regulation**

### **6.5.1 Repeal the requirement for site-specific guidelines**

#### Current regulations

Sections 5a and 21 of the Regulations on the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard currently require those tour operators who want to go ashore at 15

specified landing sites must prepare site-specific guidelines before they can go ashore with tourists. The purpose of the site-specific guidelines is to clarify the provisions of the protection regulations based on the knowledge of the individual site and relate this to traffic at the individual site.<sup>53</sup> The guidelines shall be suitable for protecting the natural environment and cultural remains at the site and the Governor of Svalbard supervises that the guidelines take care of this and the use of the guidelines.

### Proposal

The current provisions of sections 5a and 21 relating to the requirement for preparation of guidelines are proposed to be repealed.

### Background and reasons

The requirement for the preparation of site-specific guidelines is a regulation that differs from the environmental regulations otherwise. The preparation of guidelines for the use of protected areas is a task that is otherwise the responsibility of the public administration. In principle, the same guidelines should apply to all enterprises that use vulnerable areas where there is a need for rules of conduct to safeguard the vegetation, wildlife and cultural environments.

The Association of Arctic Expedition Cruise Operators (AECO) has prepared site-specific guidelines for its member companies. These site-specific guidelines contain maps and provide guidance on vulnerable areas where path formation and the like should be avoided at the sites that have such a requirement. The proposed provisions on landing in connection with tourist activities may not be as detailed as such site-specific guidelines and as a rule, will have to be related to general provisions on conduct and not rules of conduct specific to the individual landing area. However, site-specific guidelines may be set out in management plans for the area or the public administration can provide guidance in another way on what will be careful traffic in the specific areas.

Of the 15 sites that currently require site-specific guidelines, 6 sites are proposed to be closed to tourist activities due to the vulnerability of the areas and therefore it is not appropriate to continue the guideline requirement.

There are 9 sites<sup>54</sup> that require site-specific guidelines that are proposed as landing sites. Of these 9 sites, 4 areas are proposed to be regulated by limiting the area for permitted access on land to protect vulnerable localities on site (discussed in Section 6.4). There are also 4 sites that are regulated through a limit on numbers in that the number of people who can go ashore at the same time is a maximum of 39 people (discussed in Section 6.4). All 9 sites will also be subject to

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<sup>53</sup> Regulations relating to major conservation areas and bird reserves in Svalbard continued from 19732014-04-04

<sup>54</sup> Ytre Norskøya, Smeerenburg, Sallyhama, Alstrandhalvøya, Gåshamna, Gnålodden, Signehamna, Kapp Lee and Andretangen.

proposed access and passage regulations and the requirement of having a guide with expertise on sustainable tourism, safety and environmental protection and how to communicate this (discussed in Section 6.4 and 6.7) and the requirement of due care in general. Thus, this provides overall improved protection of the landing areas than at the time a regulation of site-specific guidelines was established.

It is also considered that a continuation of the existing provisions on site-specific guidelines, together with proposed regulations, will make the regulations on the landing areas more complicated than necessary.

In practice, prepared site-specific guidelines may nevertheless be useful to tour operators to meet the due care requirement of the environmental regulations for activities at the 9 sites proposed to be continued as open landing sites. The guidelines can be updated, used and further developed to meet the proposed access and passage requirements, even if the requirement for such site-specific guidelines should not be continued in the regulations.

The public administration will assess the need for clarification of general guidelines for access and passage based on the Norwegian Polar Institute's Guide for Excursions in Svalbard's natural environment<sup>55</sup> and other knowledge bases. Such guidelines can be prepared without the public administration needing legal authority. Clarification of the protection regulations may also be included in the management plans for the protected areas. Some such guidelines have already been laid down in the Management Plan for the Northeast Svalbard and Southeast Svalbard Nature Reserves<sup>56</sup>.

#### Consequences of the proposal

The proposal means that there will no longer be a requirement for the preparation of site-specific guidelines at 9 sites that will be open to landings in connection with tourist activities. The guidelines will still be able to be updated, further developed and used as a tool to ensure sustainable tourism, safety and environmental protection by tour operators. However, tour operators without prepared guidelines will also be able to go ashore at the 9 relevant sites as long as they otherwise meet the requirements of the regulations. It is uncertain whether the proposal will lead to increased traffic in these 9 areas in the future in that the tour operators who do not have such guidelines use the areas to a greater extent. The vast majority of passenger ships with more than 12 passengers operating in Svalbard are organised through AECO, which has prepared such guidelines. However, most of the smaller boats (less than 12 passengers) are not members of AECO and the proposal may involve increased visits from these.

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<sup>55</sup> <https://brage.npolar.no/npolar-xmlui/handle/11250/2643849>

<sup>56</sup> <https://www.sysselmannen.no/contentassets/49f4382a754346a6b7f581ef9f2172fc/forvaltningsplan-for-nordaust-svalbard-og-soraust-svalbard.pdf> kap. 3.5.2.

General access and passage rules will contribute to the protection of natural and cultural values at the 9 sites if the requirement for the preparation of site-specific guidelines is repealed. The proposal to limit where tourist activities can take place on land at 4 of the sites and a limitation on numbers at 4 of the sites will also help to protect the natural and cultural environment when the requirement for site-specific guidelines is repealed.

### **6.5.2 Habenichtbukta and Virgohamna**

Due to the areas' special value for dissemination and experiencing the history of Svalbard, both Habenichtbukta and Virgohamna have been selected as areas that tour operators can use for landing. Although the areas are opened for traffic, they are vulnerable and therefore, these sites must be monitored.

#### Habenichtbukta

At Habenichtbukta on the west side of Edgeøya in the Southeast Svalbard Nature Reserve access and passage are currently prohibited, cf. section 18 of the Regulations for South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard. The site has a very well-preserved cultural environment with great depth of time. The area is very suitable for communicating and experiencing the trapping history of Svalbard. The site is proposed as a landing site that can be used in tourist activities. Therefore, the site is proposed to be removed from section 18 of the protection regulations as a site where landing and access is prohibited.

The consequence of the proposal is that the cultural remains at Habenichtbukta will be accessible and can be experienced by permanent residents and visitors. The area is vulnerable due to the cultural environment there. The proposal is that landing can only take place together with a guide who has the proposed expertise and that there is a limit on the number of people going ashore at the same time. This is important to ensure that traffic does not cause damage to the cultural environment. These requirements are discussed in Sections 6.4.5 and 6.4.6. The access and passage provision proposed in section 6.7 will also help ensure that access and passage at the site take place with sufficient care.

#### Virgohamna

Virgohamna is one of the most important cultural environments in Svalbard and all cultural remains here are protected. Most famous are the Andréé and Wellmans bases here in connection with attempts to reach the North Pole. There are also remains from a Dutch whaling station here that was probably established in 1636.

The current regulations on area protection and regulation of access and passage at Virgohamna in Svalbard<sup>57</sup> entail an area protection of the many cultural remains at Virgohamna and a prohibition against access and passage without the permission of the County Governor of Svalbard. In practice, the prohibition of access and passage has led to a limit on how many people have been able to visit the site at the same time. Everyone who has applied has been granted permission on the condition that only 3 groups with a maximum of 12 passengers in each group and with at least 1 guide per group can go ashore here and be on land at the same time. Virgohamna is located in Northwest Spitsbergen National Park and is proposed as one of the areas where landing can take place. Therefore, it is proposed that section 2 of the prohibition against access and passage in the current Regulations relating to Virgohamna is repealed.

The consequences of the proposal are that it will no longer be necessary to apply to the County Governor for permission to go ashore at Virgohamna. The area is vulnerable due to the many loose cultural remains lying scattered at the site. The proposal that landing in connection with tourist activities can only take place with a guide who has expertise on the natural and cultural environment and protection of the environment on Svalbard is important to ensure that access and passage take place with due regard to the cultural remains. The proposed regulation with a limitation on the number of people ashore at the same time, for tourist activities as discussed in 6.4.6, is in line with the Governor of Svalbard's practice and is important to ensure that access and passage do not cause damage to the cultural environment. The access and passage provision proposed in section 6.7 will ensure that access and passage at the site are channelled to the paths in the area and otherwise takes place with due care. Given the current application obligation, the proposal will provide similar protection to the current regulation.

## **6.6 Proposal for the regulation of the number of passengers on board ships in protected areas**

### Proposal

Today, no more than 200 passengers are allowed on board ships sailing in Northeast Svalbard and Southeast Svalbard Nature Reserves. A provision is proposed for a passenger limit of 200 passengers also in the other protected areas in Svalbard. The limitation on the number of passengers is proposed to be introduced in the regulations for all protected areas in Svalbard, except the Møffen Nature Reserve because it lies within the boundaries of the Northwest Spitsbergen National Park where the limit of 200 passengers will apply.

### The reason for the proposal

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<sup>57</sup> Adopted by the Directorate of Cultural Heritage on 3 May 2000 under the provisions of section 4 of Act no. 11 of 17 July 1925 and Section of 20 Royal Decree no. 34 of 24 January 1992 on cultural remains in Svalbard.



The purpose of the amendment is to limit the disturbance of wildlife and wear and tear on nature and cultural remains due to large cruise ships using the protected areas where there is currently no limit on the number of passengers. A limit on the number of passengers will prevent ships with a large number of passengers from using these areas in the future, which is important to avoid a large number of passengers going ashore at the same time at the open sites. Such a large number of visitors will more easily lead to disturbances and extensive wear and tear on the valuable natural and cultural environment found in Svalbard. The limit on the number of passengers, together with the proposed limit on the number of landing sites in the protected areas, will help to avoid this.

### Background

Over the past 20 years, there has been a rapid growth in cruise tourism in Svalbard. The number of expedition cruise ships has increased from 14 in 2001 to 73 in 2019. The number of passengers on the expedition cruise ships has increased correspondingly, from around 3,400 in 2001 to 23,500 in 2019. The total number of registered landings at all the landing sites outside the local communities was 53,200 in 2001, 79,000 in 2015 and 2019, the number had increased to 124,000 landings.

In addition, there is an increasing number of passengers on large overseas cruise ships. In 2018 and 2019, 45,000 and 39,000 passengers, respectively, arrived in Svalbard on this type of cruise ship. This growth creates a need for regulations that can effectively limit disturbance of wildlife and wear and tear on the vegetation and cultural remains related to cruise tourism and landings from cruise ships. The development of cruise tourism is further discussed in section 6.2. The effects of access and passage on nature and cultural remains are further discussed in section 6.3.

	2001	2015	2019
Number of expedition ships	14	30	73
Number of passengers on expedition ships	3,400	14,400	23,500
Number of landings outside local communities	53,200	79,000	124,000

Figure 5. The development of cruise tourism in Svalbard in the period 2001-2019.

In 2020, Covid-19 led to significantly reduced activity and today it is uncertain what the activity will be like in the next few years. However, there is reason to believe that activity will pick up again when the pandemic is over.

In the two large nature reserves in Eastern Svalbard and the three large national parks in the west, there is currently a requirement for the ship's fuel quality, which means that ships calling at these

protected areas shall not use or have on board any fuel other than a specified type of marine diesel (DMA quality in accordance with ISO 8217 Fuel Standard). The fuel ban means that vessels travelling in the area cannot have heavy oil on board. The fuel ban also means that most large overseas cruise ships do not use these protected areas in their operations today.

From 1 January 2022, it is prohibited for ships calling in territorial waters around Svalbard to have on board petroleum fuel with a higher density, viscosity or point of solidification than permitted for marine gas oil, cf. the new section 82a of the Svalbard Environmental Protection Act. This applies from 1 January 2024 for goods transport and bulk transport to and from Longyearbyen and Barentsburg. The current fuel quality requirement in the two large nature reserves in Eastern Svalbard and the three national parks is repealed (discussed in section 8.9).

Today, only moderately sized cruise ships call at the three national parks in the west. These are mainly the same ships that call at the nature reserves in Eastern Svalbard, where a limit of 200 passengers has been set. If in the future the large overseas cruise ships switch from heavy oil to what will be permitted fuel in the territorial waters, this could lead to this type of vessel calling at more of the protected areas. This could mean significantly more traffic in the national parks and the other protected areas than today.

The proposed regulation of landing sites in many of the protected areas will channel the traffic to some given sites that are permitted to be used. Even if the proposed regulation of landing sites has provisions on how access and passage in connection with landings shall take place, this will not be sufficient to prevent increased strain if the number of landings is too high. A limit on the number of passengers will help keep this number down. Therefore, there is also a need for a limit on the number of passengers in areas where regulation of landing activities is proposed.

#### The right to innocent passage

The legal basis is that coastal states have sovereignty in internal waters and territorial waters, cf. Article 2 (1) of the UN Convention on the Law of the Sea (UNCLOS) and thus the competence to adopt environmental regulations. Vessels from all states are nevertheless entitled to the right of innocent passage through the territorial waters, cf. Article 17 of UNCLOS, but not through internal waters.

The passage is innocent as long as it is not “prejudicial to the peace, good order or security of the coastal state”, cf. Article 19, which means, among other things, that vessels cannot commit any act of “wilful and serious pollution contrary to this Convention”, and also other types of activities. Large ships on passage, such as cargo ships in ordinary operation or cruise boats on their way between two destinations, usually sail in a way that must be considered “innocent”.

Furthermore, the purpose of the passage must be to “traversing over the territorial waters without entering internal waters or calling at a roadstead or port facility outside internal waters or “proceeding to or from internal waters or calling at such a roadstead or port facilities”, cf. Article 18(1). The passage shall be “continuous and expeditious” and nevertheless include stopping and anchoring but only insofar as the same are incidental to ordinary navigation or are rendered necessary by a force majeure or distress (,,,)”, cf. Article 18(2).

The vessels located in the protected areas in Svalbard where a limit on the number of passengers is proposed are generally not in transit but sail to shore somewhere in Svalbard or make a stop in the territorial waters as part of, for example, a cruise. In practice, questions about innocent passage will therefore be relevant in this context. Should ships nevertheless be on innocent passage in the territorial waters in the protected areas, the proposed amendments are considered for all purposes to be in line with the Law of the Sea concerning the right to innocent passage.

#### Consequences of the proposal

A limit of 200 passengers will entail changes for the ships that currently use the protected areas for expedition cruises with more than 200 passengers.

The Norwegian Coastal Administration’s Satellite Data (AIS) show that in 2019, 24 ships over 100 tonnes were registered as operating with passengers in the two large nature reserves in Eastern Svalbard and the three large national parks west of Svalbard.<sup>58</sup> Nine of these have the capacity for more than 200 passengers on board. Five of the nine ships with a passenger capacity of more than 200 passengers had trips to the nature reserves in the east where it is currently not permitted to have more than 200 passengers on board. This means that ships with a higher passenger capacity also use the nature reserves in the east but with a lower number of passengers than the ships have the capacity for. Furthermore, it is concluded that the ship passing through the national parks in the west on their way to the nature reserves in the east operate with reduced capacity so as not to exceed the limit of 200 passengers.

The Governor of Svalbard’s statistics also show that 9 ships with a capacity of more than 200 passengers used the protected areas in 2019.<sup>59</sup> The figures show that 5 of these 9 ships had an average of fewer than 200 passengers on board per voyage.

Of the 4 ships with average higher passenger numbers, only 2 of them have a significantly higher average passenger number than 200 (on average 322 passengers (specified as ship number 8 in the table below) and 501 passengers (specified as ship number 9 in the table below).

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<sup>58</sup> The statistics apply to IMO registered ships over 100 tonnes

<sup>59</sup> The Governor of Svalbard’s statistics over registered sailings according to the Tourist Regulations. The statistics only include AECO members (95% of commercial actors).

The four ships carrying on average more than 200 passengers per voyage have completed 15 of a total of 43 voyages in 2019, see Figure 6. The statistics do not show whether there have been more than 200 passengers on board all 15 voyages or whether there have been more than 200 passengers on some trips with ships carrying an average of fewer than 200 passengers.

Ship	No. of sailings 2019	Passenger capacity	Average number of passengers
1	4	200	200
2	6	210	119
3	7	240	149
4	6	264	198
5	7	264	220
6	5	318	173
7	4	322	229
8	3	340	322
9	1	530	501
<b>Total</b>	<b>43</b>		

Figure 6 Overview of passenger capacity, number of passengers per voyage and number of voyages within the protected areas for the 9 ships that have a passenger capacity over 200 (Governor of Svalbard).

For those ships that currently sail with more than 200 passengers in the protected areas, a limit of 200 passengers will mean that they either must sail with reduced passenger numbers or change their activities and sail in areas where it is possible to sail with a larger number of passengers. The latter solutions may seem of little use for expedition cruises if all the protected areas have a passenger limit of 200. If it is decided to sail with a reduced number of passengers, this may have financial consequences if it is not possible to compensate for a reduced income in other ways.

The total number of expedition cruise ships (large and small boats) that operated in Svalbard in 2019 according to the Governor of Svalbard's statistics is 73.<sup>60</sup> Only nine of these ships have a capacity of more than 200 passengers and five of these nine have had an average of fewer than 200 passengers on their trips in 2019. Of the four ships with more than 200 passengers on average, two ships account for 11 out of 15 sailings. The average number of passengers for these ships is only 20 to 30 passengers more than the proposed passenger limit. The financial consequences of a stricter passenger limit for these will probably be limited.

<sup>60</sup> The AIS data as discussed in the section only apply to boats over 100 tonnes.

Overall, the consequences are considered to be limited based on the total number of sailings that would have been affected by the passenger limit in 2019 and the average number of passengers on ships carrying on average more than 200 passengers. The data are considered to be representative under normal conditions.

*The Global cruise ship order book* states that there are around 30 new expedition cruise ships on order up to 2023. Most of these are certified for a maximum of 200 passengers and the introduction of a passenger limit of 200 in the national parks is therefore not expected to have significant consequences for activities planned with these ships if these are to be used in Svalbard.

Large overseas cruise ships do not currently use the large protected areas due to the fuel ban but mainly use Longyearbyen and other local communities in Svalbard. Some of the overseas cruise ships also have afternoon and evening trips without landing in Tempelfjorden at the Sassen-Bünsow Land National Park. There is no obligation to report here so there is no data on the number of sailings. According to the proposal, this type of afternoon trip must take place outside the national parks in Isfjorden. For cruise operators with larger cruise ships, the regulation will thus entail a disadvantage for those who use Tempelfjorden today and for those who want to use the protected areas in the future. If the proposal is adopted, such ships must use areas that are not protected.

## **6.7 Proposal for provisions for all traffic in protected areas**

### Current regulations

All access and passage on Svalbard shall take place in a way that does not harm, pollute or in any other way damage the natural environment or cultural remains or lead to unnecessary disturbance to humans or wildlife, cf. section 73, second paragraph of the Svalbard Environmental Protection Act. Access and passage that in itself or together with other uses may be suitable for counteracting the purpose of the protection may be prohibited or regulated in regulations on protected areas, cf. section 12 of the Svalbard Environmental Protection act.

### Proposal

A separate provision is proposed that says something about where and how access and passage should take place to avoid and limit damage and disturbance. It is proposed that this provision is included in all protection regulations so that it will apply in general for all access and passage in all protected areas. Thus, the provision applies not only to the open landing areas but also to protected areas that are not covered by the regulation. Furthermore, the provision is proposed to apply to access and passage by any person, not just access and passage under the auspices of the tour operators, as such rules on access and passage should apply to everyone. The requirement means that any person who accesses or stays in the protected area shall prevent permanent

tracks and wear and tear on the terrain and cultural remains and that the visitors shall keep to the paths where these are found. Where no paths exist it will still be possible to walk in the terrain. Stones, stakes and other objects used at the site shall be cleared away and returned to where they were found so that the landscape of the site does not change after human use. Section 73 of the Svalbard Environmental Protection Act states that all access and passage shall not lead to unnecessary disturbance of wildlife. It is proposed that this is specified more closely in the provision on access and passage in that by requiring that sufficient distance is kept from wildlife to avoid unnecessary disturbances. The provision is proposed formulated as follows:

***Section.. access and passage***

*Any person who accesses or visits a protected area shall prevent new permanent wear and tear to the terrain and culture remains. Paths must be used where such exist. Stones, stakes and other objects used at the site shall be cleared and returned to where they were found.*

*A sufficient distance shall be kept from*

- a) wildlife to avoid unnecessary disturbances and*
- b) protected cultural remains that are not in use, so that these are not exposed to trampling or other activity that poses a risk of damage.*

Reasons

With increased tourism and traffic on land in connection with landings, hiking, camping activities, etc. there are clearer signs of human traffic, including the protected areas. There are clear paths in several places, typically from the shoreline and up to nearby peaks/lookout points, cultural remains, buildings, etc. Cairns built of stones, benches, etc. made from driftwood and the like are all clear signs of human presence and traffic. Despite the due care provision, the cumulative environmental effects of access and passage has led to damage to and deterioration of the natural and cultural environment. As long as access and passage are permitted, this shows that it may be difficult to assess the individual or the individual group's access and passage in a larger context. It is the overall load that is the problem. Therefore, in the protected areas, in particular, it is considered necessary to have specific rules on access and passage with due care.

The strain on the landing sites that are open to tourist activities is expected to increase. In accordance with section 73, second paragraph of the Svalbard Environmental Protection Act, the objective is to avoid new wear and tear from traffic (paths), or other damage from trampling and therefore it is proposed that all access and passage on land shall keep to paths where such are available. It is also proposed that access and passage shall not lead to new permanent tracks or wear and tear on the terrain. The provision on access and passage will mean that people have to use paths where these are available, but it does not prevent you from going up to a lookout point where there is no path, or further into the terrain. The provision is considered important to prevent an increased number of visitors from trampling new paths.

According to section 42 of the Svalbard Environmental Protection Act, it is prohibited to damage protected cultural remains and the proposed provision states that sufficient distance shall be kept from such to avoid trampling or other damage to cultural remains. These provisions also apply to cultural remains located on paths and even if access and passage are to be channelled to paths, the path must be bypassed if cultural remains are located on the path itself. Thus, the requirement that visitors must keep to paths does not entail any relaxation in the requirement for access and passage with due care according to section 73, second paragraph of the Svalbard Environmental Protection Act so that visitors must still show consideration for what is on the path, e.g., cultural remains or wildlife (e.g. a nest).

The access and passage guide from the Norwegian Polar Institute provides advice on how visitors can avoid disturbances and we consider that this should be followed as much as possible and that the Governor of Svalbard should draw up guidelines for access and passage with due care based on the advice in that respect. The objective of the provision that a sufficient distance shall be kept from wildlife is to specify the importance of keeping the recommended safe distances to prevent disturbances to wildlife.

Cultural remains range from large technical structures after mining activities to bone remains from the trapping era and other loose objects that are often scattered in the terrain. A good example of this is the many visible remains of different activities at Virgohamna over a long period. Many of the cultural remains are vulnerable structures that do not withstand trampling or other activity. Section 42 of the Svalbard Environmental Protection Act states that no one must damage or alter automatically protected cultural remains and this is also stated in sections 5 and 73, second paragraph of the due care provision. The requirement that visitors shall keep to the paths does not imply that it is permitted to trample/walk on cultural remains if they are located on an established path today.

### Consequences

The provision is considered to clarify to a great extent the current provision in section 73, second paragraph of the Svalbard Environmental Protection Act, and thus does not entail major changes to those affected. Where it may have previously been somewhat unclear what causes damage, deterioration or leads to disturbance, there are now more specific rules for this. The requirement for visitors to keep to paths where these exist is an amendment that to some extent limits where access and passage can take place compared with today. The requirement only applies where there is a path that can be used and thus will not limit access and passage where there are no paths. The proposal is not considered to have significant consequences for the tourist industry beyond the need for greater care and the necessary knowledge to exercise due care.



## 6.8 Proposal for the delegation of authority to regulate access and passage

In Northeast Svalbard and Southeast Svalbard Nature Reserves, the Norwegian Environment Agency has delegated authority to regulate and prohibit access and passage within limited parts of land and sea through regulations (except for passage through Hinlopen Strait, Heleysundet and Freemansundet that cannot be regulated). The right to regulate access and passage only applies when it is necessary to avoid disturbance of wildlife, wear and tear on vegetation or cultural remains or to preserve the area's value as a reference area for research, cf. section 22 of the Regulations on the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and bird reserves in Svalbard. Similar authority has been delegated to the Norwegian Environment Agency in Sassen-Bünsow Land, Nordre Isfjorden, Van Mijenfjorden National Park, Indre Wijdefjorden National Park and Ossian Sars Nature Reserve and the Festningen Geotope Protected Area, as well as in protected areas on the mainland. The provision is a safety valve and has not been used. Such provisions must take the form of regulations and comply with the requirements for regulations according to Chapter VII of the Public Administration Act and entails that a proposal must be drawn up and distributed for consultation.

It is considered a shortcoming in the regulations that this authority to control access and passage in defined areas has not been laid down in South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks and bird reserve in Svalbard when it has been introduced in other national parks and nature reserves in Svalbard. Therefore, it is proposed that the current section 22 is moved to a new section 38a in Chapter 4 on joint provisions in the Regulations relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and the bird reserves in Svalbard, so that the same provision will apply to all the protected areas in the regulations.

## 7. Protection of polar bears

### 7.1 Current regulations relating to polar bears

Polar bears are covered by the general fauna protection stated in section 25 of the Svalbard Environmental Protection Act. The fauna protection means that "*No person may hunt, capture, injure or kill fauna or damage eggs, nests or lairs unless so authorised by the provisions of this chapter*", cf. section 30.

According to section 30, fourth paragraph, it is also prohibited to "*lure, pursue or otherwise seek out polar bears in such a way as to disturb them or expose either bears or humans to danger*". Section 30a of the Svalbard Environmental Protection Act regulations protection against polar bear attacks. The provisions of section 30, fourth paragraph and section 30a have been repeated in part

and elaborated somewhat in <sup>61</sup> Chapter IV relating to safety measures in respect of polar bears. Section 11 of the Regulations relating to camping activities set further requirements regarding means of frightening and scaring off polar bears and protecting the campsite.

In Kong Karl's land, which lies within the boundaries of the Northeast Svalbard Nature Reserve, access and passage are prohibited the whole year round according to section 17 of the Regulations for the sake of the polar bears.

## 7.2 Proposed amendments to the provisions on polar bears

The prohibition against seeking out polar bears in section 30, fourth paragraph of the Svalbard Environmental Protection Act is proposed to be tightened and moved to section 30a so that all regulations relating to polar bears are now collected in section 30a. It is proposed that the prohibition includes seeking out polar bears regardless of the consequences so that there is no longer a requirement that seeking out polar bears must lead to disturbance or danger.

A safe distance from polar bears of at least 500 metres is also proposed. If a polar bear is sighted on land, on the ice or at sea closer than 500 metres, an obligation to retreat is proposed. The minimum distance will not apply within inhabited areas, at research stations, when staying in cabins, tents or similar facilities.

Some adjustments to the terminology in the current wording of section 30a are also proposed. "Organised tours" is proposed to be replaced with "tourist activities" so that the terminology is harmonised with the field safety regulations, the camping activity regulations and the protection regulations (see more about this in sections 6.4.2 and 9.2). Recently it has become more common for polar bears to draw in towards the local communities. Therefore, a slight tightening of the requirements of the provision is proposed to apply geographically. Instead of the requirements in section 30a of the Svalbard Environmental Protection Act applying outside "settlements", it is proposed that the requirements shall apply outside "inhabited areas". That is to say that the requirement for being familiar with how to safeguard against polar bear attacks, the requirement to take the necessary measures and the requirement to be equipped with the appropriate means to frighten and chase off polar bears apply outside "inhabited areas". An "inhabited area" means the inhabited/central parts of Longyearbyen, Ny-Ålesund, Barentsburg and Pyramiden. It is also proposed to regulate "staying", not just "access and passage". This is only a clarification and involves no material change.

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<sup>61</sup> Regulations relating to camping activities in Svalbard (FOR-2002-06-27-731)

### 7.3 Background

Polar bears are classified as vulnerable in the Norwegian Red List for Species<sup>26</sup> and on the global red list<sup>62</sup>. Under the International Polar Bear Agreement signed in 1973, Norway is obliged to protect the habitats of polar bears under Article II.

Compared with climate change, human disturbance, such as noise and traffic alone, are significantly less influencing factors for polar bears. However, the influencing factors must be considered as a whole, as the polar bear is exposed to these at the same time, cf. the principle of cumulative environmental effects in section 8 of the Svalbard Environmental Protection Act. Specific effects of disturbance on demographic parameters are difficult to document but disturbance can represent an additional factor for a “stressed” polar bear population. Therefore, the polar bears must be protected by minimising the impact of human traffic.

Climate change with less ice not only affects polar bears it also makes the sea areas accessible for tourism, traffic and transport. It is now easier to reach several areas by sea, which increases the potential for disturbances and conflict situations in encounters between humans and polar bears. The polar bear is also a signal species many tourists come to experience and therefore visitors are often directed towards areas where the probability of experiencing polar bears is greatest. Such traffic may change the behaviour of the polar bears in that their normal activity is disturbed.

Increased tourism and traffic where polar bears were previously alone, together with the development of social media, means that it is now easy to disseminate information about the location of polar bears. Experience shows that where such information is posted, e.g. on Facebook and Instagram, this has a significant impact in directing the traffic to places where photos or video clips have been taken. Cruise ships can also disseminate information about sightings of polar bears, e.g., by reporting by radio from ship to ship. The likelihood of conflicts will increase particularly in the areas where polar bears migrate ashore or to the few areas where there is fjord ice due to the reduction of sea ice.

The current regulations are strict but climate change and increased tourism and traffic mean that there is a need to sharpen and clarify the protection of polar bears.

### 7.4 Reasons

The proposed ban on seeking out polar bears without a requirement of a disturbance effect will provide stricter regulation and thus increased protection of polar bears. The amendment provides a clearer and simpler provision in terms of understanding and enforcing it. When a polar bear is sighted, regardless of the distance, it will be prohibited to approach it further as this will be considered to be “*seeking out*”. Out in the field, this regulation can also reduce any pressure the individual guide may feel from the tourist group to approach a polar bear that has been spotted.

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<sup>62</sup> IUCN, [www.iucnredlist.org](http://www.iucnredlist.org)

Furthermore, the ban will affect going to places where bears are specifically known to be, e.g., based on specific information on social media.

The proposal for an absolute distance requirement will reduce the disturbance of polar bears discovered within the established limit and at the same time, reduce the risk of confrontations that can escalate if people get too close. It is difficult to determine what the minimum distance should be. Responses to the disturbance of polar bears are both situational and vary from individual to individual. Some animals may appear undisturbed at distances of tens of metres, including when travelling on snowmobiles or by boat. Others may react to snowmobiling and be frightened from hunting grounds on the ice already from a long distance. Females with cubs, in particular, are sensitive<sup>1</sup>, and some females with cubs may react when a snowmobile is several kilometres away (Andersen and Aars 2008).

However, the polar bear is an endangered species that has more challenging living conditions due to climate change and these will probably continue to deteriorate in the years ahead. From a precautionary perspective, the starting point should be the polar bears that are most sensitive to disturbance. Therefore, such an approach indicates that disturbance closer than at least 1 km should be avoided as far as possible. In practice, such a long limit may be difficult to implement, both in terms of being able to assess distance and not least being able to detect polar bears. A more manageable limit would probably be 500 metres. This is a distance that will still provide some degree of protection, as well as still being able to reduce the risk of getting into conflict situations. The Norwegian Polar Institute has prepared a guide for access and passage in Svalbard to limit disturbances and maintain own safety. The guide provides advice on how to act with respect to the general risk of encountering polar bears and more specifically when encountering a polar bear<sup>12</sup> where the advice is not to allow the bear to get closer than 150-200 metres before firing a warning shot. Thus, a minimum of 500 metres will also have a safety aspect.

Together with the minimum safe distance, it is also proposed to impose an obligation to retreat if a polar bear is spotted or encountered closer than 500 metres. In practice, such an obligation is considered as important as a minimum distance in itself and complements the minimum distance and the reason for this.

## 7.5 Consequences of the proposal

The proposal entails that it will be prohibited to seek out polar bears in general and an obligation to keep a distance of 500 metres away when polar bears are sighted in the field and will give polar bears greater protection against disturbances from traffic. The proposals will limit the opportunity to experience polar bears compared with today by prohibiting the seeking out of polar bears, and

through imposing a minimum safe distance. The proposal will make it forbidden for tour operators to arrange trips to seek out polar bears. Such a ban is also practised today in that tour operators offer no trips to seek out polar bears.

To fulfil the minimum distance limit, you should bring with you equipment to measure distance in the same way as other equipment you must carry when travelling in Svalbard. There are many and simple variations of such equipment from apps that use your mobile phone camera to binoculars with an integrated distance meter and self-contained meters. If you are unsure of the distance to a polar bear that has been spotted, the consequence is that you must retreat far enough so that you are sure that the distance is more than 500 metres.

## 8. Motor traffic

### 8.1 Overview of the proposals

Several amendments to the Regulations on motor traffic in Svalbard have been proposed. The proposals are:

- Prohibition against the use of snowmobiles on ice-covered sea areas in certain fjords (Section 8.2)
- Prohibition against breaking fast ice (Section 8.3)
- A speed limit at sea of 5 knots at a distance of 500 metres from certain bird cliffs (Section 8.4)
- Requirement for motor traffic at sea to maintain a minimum distance of 300 metres from walrus haul-out sites (Section 8.5)
- Prohibition against the use of underwater vehicles (Section 8.6)
- Requirement for an approved land-use plan for driving according to the provision on motor traffic in land-use planning areas and the requirement for a driving permit for building and construction work on cabins (Section 8.7).
- The use of electric bicycles on snow-covered and frozen ground will be permitted in the same areas as the use of snowmobiles and tracked vehicles is permitted (Section 8.8)

The current fuel quality requirement in the Northeast Svalbard and Southeast Svalbard Nature Reserves and the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks is repealed (Section 8.9).

It is also proposed that the current provision of section 8 of the Motor Traffic Regulations relating to areas where permanent residents and visitors can use tracked motorcycles, etc., is divided into new provisions section 8 - 8c so that the regulation of motor traffic for permanent residents and visitors is given in separate provisions. The term “organised tours” is proposed not to be continued, but replaced with the term “tourist activities” for coordination with the terminology in the proposed new field safety regulations, as also proposed in the Regulations on camping activities and the new

provisions for conservation areas. The term “tourist activities” is proposed to be defined in section 2a of the Regulations on camping activities and includes all forms of tourism. It is assumed to involve any material change from today’s terminology.

## **8.2 Prohibition against motor traffic on sea ice in selected fjords**

### Current regulations

Motor traffic in the terrain on snow-covered and frozen ground, as well as on ice-covered river systems and sea areas is generally prohibited according to section 79, second paragraph of the Svalbard Environmental Protection Act and section 7 of the Regulations relating to motor traffic in Svalbard. Section 8 of the Motor Traffic Regulations allows the use of snowmobiles and tracked vehicles by permanent residents and visitors in areas laid down in map attachments A and B to the regulations. As a rule, the use of snowmobiles is permitted in ice-covered river systems and sea areas adjacent to areas on land that can be used. Pursuant to section 10 of the regulations, the Governor of Svalbard has introduced temporary regulations relating to motor traffic on sea ice in Billefjorden, Tempelfjorden and Rindersbukta in Van Mijenfjorden in 2018, 2019, 2020 and 2021.

On 18 June 2021, the expansion of the former Nordenskiöld Land National Park was adopted. The national park is now called Van Mijenfjorden and a ban on motor traffic on sea ice has already been adopted in this protection regulation. The proposals below are identical to the prohibition provision relating to driving on sea ice in Van Mijenfjorden National Park as laid down in the protection regulations.

### Proposal

A permanent ban is proposed in sections 8 - 8c of the Motor Traffic Regulations against the use of snowmobiles and tracked vehicles on sea ice after 1 March in Billefjorden, Tempelfjorden, Van Keulenfjorden and Van Mijenfjorden by permanent residents and visitors. A ban on motor traffic after 1 March is also proposed in section 8c for visitors to Dicksonfjorden.

We propose several exceptions to the prohibition to meet the need to use the sea ice. Permanent residents are proposed to be able to traverse the sea ice on the shortest navigable route in Billefjorden, Tempelfjorden and Van Mijenfjorden. Traversing the sea ice means driving directly over the ice to reach land on the opposite side without unfounded stays or stops on the ice. The shortest navigable route means that driving on the ice shall be limited to the shortest route over the ice that is safe, secure and where wildlife is not disturbed unnecessarily. Visitors will also have similar access to traverse the sea ice in Billefjorden and Tempelfjorden but not Van Mijenfjorden, except when this is necessary for access to cabins. Visitors will not be able to travel on or cross Dicksonfjorden.

Permanent residents who want to use snowmobiles in South Spitsbergen National Park must apply to the Governor of Svalbard for permission to traverse Van Keulenfjorden<sup>63</sup>.

Traffic along the shore may be necessary for access to cabins based on topographic conditions. It is proposed that permanent residents should be able to drive the shortest navigable route along the shore on the north side of Van Mijenfjorden, which allows access to cabins in this area, among other things. Visitors may need to drive on Van Mijenfjorden for access to cabins, e.g., in connection with visits to permanent residents and when participating in tours organised by tour operators to the commercial cabin at Van Mijenfjorden. Therefore, it is proposed that visitors can use the necessary motor traffic on the shortest navigable route on sea ice in Van Mijenfjorden for access to cabins.

Today, the sea ice on the north side of Van Mijenfjorden along the shore is used by tour operators in connection with round trips. To maintain the possibility of such round trips, it is proposed that visitors can drive along the shore on the north side of Van Mijenfjorden when they are participants in tourist activities.

For all exceptions, it is proposed that it is not permitted to stay and stop on the sea ice longer than is necessary for safe passage.

For Fritjofhamna and Rindersbukta in Van Mijenfjorden, and the innermost parts of Billefjorden and Tempelfjorden, a total ban on motor traffic after 1 March is proposed, cf. sections 8a and 8c and the associated map attachments.

### Reasons

The purpose of the amendment is to prevent disturbance of ringed seals and polar bears at a time where there is decreasing sea ice in the fjord in Svalbard. The proposal will reduce disturbances of wildlife by motor traffic from the time these areas are particularly important for wildlife.

### Background

Climate change in the Arctic has led to major changes in the presence of sea ice. The sea ice is constantly decreasing in extent and the occurrence of multi-year ice has been reduced. In the central polar basin, sea ice thickness was reduced by over 65% from 1975 to 2012<sup>64</sup>. Measurements show that the reduction is taking place faster than before, and is fastest in the summer and autumn months. Decreasing sea ice in the fjords around Svalbard is a limiting factor for the population development of ringed seals and thus a limitation in areas where the polar bear can hunt ringed seals. Motor traffic on sea ice is very likely to have an adverse affect on polar bears and the ringed seals' use of the same areas. Areas with fjord ice in front of glacier fronts are important whelping

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<sup>63</sup>Permanent residents must also apply for motor traffic in South Spitsbergen National Park.

<sup>64</sup>Environmental status



(give birth) areas for ring seals and therefore, are very important hunting areas for polar bears - especially for females with year-old cubs immediately after the den has been abandoned. The probability of negative impact of traffic in such areas is particularly high.

The peak season for snowmobile trips coincides with the most vulnerable period for species such as ringed seals and polar bears, as the ringed seals whelp and the polar bear females leave their dens with their cubs in this period. As there is increasingly less ice in the fjords on the west coast of Spitsbergen, the habitats of ringed seals and polar bears have become restricted. At the same time, less ice means that the snowmobile traffic on the fjord ice is concentrated in the same, increasingly smaller areas that are important for wildlife. This increases the vulnerability of these species and the potential for disturbances from snowmobile traffic with stress responses in the animals such as flight and avoidance of important habitats also increases.

Studies show that polar bears are sensitive to disturbance and under given conditions may react to noise/motor traffic at a distance of several kilometres. Females with cubs, in particular, are very sensitive to disturbances<sup>65</sup>. Similar findings in the form of a negative response to motor traffic have been also been registered for other species such as ringed seals, Svalbard reindeer<sup>66</sup> and Arctic foxes<sup>67</sup>. Climate change and increased traffic make it important to limit snowmobile traffic in areas and at times when wildlife are particularly vulnerable, as well as to channel motor traffic so that it causes as little as possible disturbance.

Tempelfjorden and Billefjorden are sill fjords<sup>67</sup> that in recent years have had some ice almost every year in April and May, unlike other fjords on the west side of Spitsbergen. The fjords are regularly home to seals and polar bears, including females polar bears with cubs. Both fjords have glacier fronts that are particularly important whelping areas for ringed seals and hunting grounds for polar bears.

Van Mijenfjorden is also a sill fjord. This fjord distinguishes itself in that most years, it still has stable fjord ice over large areas. This is due to the local conditions with Akseløya as a barrier against the infiltration of temperate Atlantic ocean currents that follow the west coast of Spitsbergen northwards. The fjord arms of Rindersbukta and Fridtjofhamna, which both have glacier fronts, have been designated as important areas for ringed seals and polar bears. Like Van Mijenfjorden, Van Keulenfjorden is very important for some polar bears and also other ice-

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<sup>65</sup> Andersen M. and Aars J. 2008. Short term behavioural response of polar bears (*Ursus maritimus*) to snowmobile disturbance. *Polar Biol* (2008) 31: 501-597

<sup>66</sup> Norwegian Polar Institute (2020b). Compilation of knowledge of the disturbance effects of traffic on wildlife in Svalbard. Note March 2020.

<sup>67</sup> Terskelfjord is a fjord with a shallow sill at its mouth and a deep inner section.

dependent species, especially at the innermost part where the Liestøl glacier/Doktor glacier flow into the fjord.

Dicksonfjorden usually has fast ice and is an important whelping fjord for ringed seals and thus also an important feeding ground for polar bears. The fjord forms an external border where visitors can go and thus visitors will not need to cross the ice. Therefore, visitors are not permitted. access here.

### Consequences

A permanent ban on traffic on sea ice in these areas is considered necessary to protect the wildlife. The prohibition means that permanent residents, visitors and tourist activities cannot freely use snowmobiles in the fjords in question. The proposal is based on the varying ice conditions from year to year and the temporary regulations of the last few years are nothing new, except that a few more fjord areas are covered by the ban. The opportunity to traverse the sea ice and motor traffic on the sea ice along the shore, as described, will meet the permanent residents and visitors' needs to use the sea ice to travel between areas they are allowed to travel in and to cabins. Similarly, tourist activities will be able to use the sea ice to traverse Tempelfjorden and Billefjorden, as well as for access to the commercial cabin in Van Mijenfjorden. In addition, tourist activities can drive on the sea ice along the shore on the north side of Van Mijenfjorden so that round trips can be continued. Therefore, the ban is not considered to have major consequences for the local population, visitors and tour operators. A permanent ban on motor traffic on these ice-covered sea areas will create a more predictable situation for those affected than a temporary ban and create fewer administrative costs for the Governor of Svalbard compared with annual regulations.

## **8.3 Prohibition against icebreaking**

### Current regulations

The fast ice is of great importance to many species and icebreaking can lead to a deterioration of the natural environment that may be prohibited according to the general rule on access and passage in section 73 of the Svalbard Environmental Protection Act. Icebreaking, i.e., entering and breaking up ice, is not currently directly regulated beyond this and the recently adopted prohibition against icebreaking in section 6 of the Regulations relating to Van Mijenfjorden.

### Proposal

A general ban against breaking fast ice and ice which is in the process of forming is now proposed in section 12a of the Regulations relating to motor traffic in Svalbard. This means that motor traffic that maintains open channels in fast ice and ice that is in the process of forming (e.g., due to other people's access and passage) will also be prohibited.

There is a need to be able to break ice for certain necessary and regular purposes. The fairway into the port at Longyearbyen must be kept open for delivery of supplies, shipping coal for commercial activities, as well as for boats used for research and tourist purposes based in the port. The same applies to the port at Barentsburg. Icebreaking may also be necessary for access to the port at Ny-Ålesund to deliver supplies. The Norwegian Coast Guard operates regularly around the archipelago and has a wide range of tasks according to Chapter 3 of the Coast Guard Act. In some cases, the performance of these will require breaking the ice and where necessary tasks cannot be performed in any other way, it is proposed to include an exception for these.

Therefore, it is proposed in section 12a, third paragraph that the prohibition shall not apply to motor traffic to keep the fairway into Longyearbyen and Barentsburg open, for supplies to Ny-Ålesund, as well as for the Norwegian Coast Guard's performance of necessary tasks where these cannot be solved in any other way. The exemption for the Norwegian Coast Guard does not apply in Van Mijenfjorden National Park where section 6 of the protection regulations does not include any exceptions to the ban. Icebreaking over and above the exceptions in section 12a, such as for research and monitoring purposes, is dealt with according to section 13 of the Motor Traffic Regulations. However, the general exemption provision for the performance of tasks, and emergency operations by the fire and rescue services, as well as the necessary inspection activities by the Governor of Svalbard in section 77 of the Svalbard Environmental Protection Act also applies to the prohibition against icebreaking and therefore, icebreaking can be carried out when necessary to perform such tasks.

### Reasons

The purpose of the proposal is to protect the fast ice as an important habitat for marine and terrestrial species and as an important part of the ecosystem in the fjords and along the coast of Svalbard.

### Background

The Norwegian Ice Service at the Norwegian Meteorological Institute defines fast ice as continuous sea ice that forms and remains fast along the coast attached to the shore or an ice wall (grounded glacier), ice barriers (floating ice front), shoals or grounded icebergs. It can be formed in-site by freezing seawater or floating ice freezing together. Fast ice can be freshly frozen or several years old. In the fjords of Svalbard, fast ice is mainly formed by strong cold and low winds, or possibly by onshore winds over several days. This fast ice may lie for a long time but it can be broken up by strong offshore winds. Areas with fast ice are marked on the Norwegian Ice Service's ice chart, which is updated daily.<sup>68</sup>

The fast ice is an important ecological function area that is extremely vulnerable due to climate change. Climate change has resulted in less ice distribution, while the ice is also thinner and lies on for a shorter period than before. As a result of this development, boat traffic has also increased and

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<sup>68</sup> <https://cryo.met.no/nb/siste-iskart>

this combination means that there is a need for a clear regulation of icebreaking. Species linked to sea ice are extremely vulnerable due to climate change and therefore, there is a need to protect the ice as an ecological function area. This applies particularly to fast ice, which is becoming increasingly less prevalent due to climate change and can be strongly affected by icebreaking.

Fast ice is an important habitat for marine and terrestrial species. The fast ice is of critical importance as a habitat for ringed seals, which are vulnerable due to climate change with subsequent loss of sea ice. Ringed seals remain in contact with the ice and gives birth inside snow lairs on the ice, moult here and use the ice in general to rest on. Areas of fast ice close to glacier fronts where the calving ice freezes on the ice or pack ice (ice floes that are pressed together and form mounds of ice) are particularly important whelping grounds for ringed seals. These areas are also important growing up areas and habitats for polar bears, among others, as the ringed seal is the polar bear's main source of nutrition. The ice also provides important migration routes for polar bears, Svalbard reindeer and Arctic foxes. Furthermore, the ice itself is an Arctic marine ecosystem that is highly productive and unique with species specialised in living in the sea ice.

The ice starts to have an ecological function as soon as the ice forming process starts. Changes in the habitat, whether the extent or structure, can have major consequences for the ecosystems and the food chains linked to the ice. Natural factors that can contribute to rapid changes in ice conditions are wind, ocean currents, as well as temperature changes that can lead to freezing or thawing conditions. Based on such conditions, the fjords have generally been more certain to be ice-covered than more open sea areas, and this is also where many of Svalbard's glacier fronts are located. External factors such as icebreaking can be unfortunate and cause the fast ice to break up and be transported out of the fjord so that no ice forms again during the season. Thus, a ban on breaking fast ice and ice that is in the process of forming provides greater protection of this ice. As the ban also includes ice that is in the process of forming, activities that can prevent new fast ice from forming will also be prohibited. For example, this applies to motor traffic that maintains open channels in the ice.

Fast ice is also found outside the fjord systems both at Forlandsundet on the west side of Spitsbergen and in the more protected areas on the east side of Spitsbergen. Along the coast of Storfjorden and also in the areas around Edgeøya, Barentsøya and Kong Karls Land there are periods of fast ice. To ensure that such areas are not harmed by human activities, it is proposed to impose a general ban on breaking fast ice and ice that is in the process of forming within the entire scope of the Svalbard Environmental Protection Act, i.e., within 12 nautical miles from the baseline around the whole of Svalbard.

### Consequences

The proposal is mainly considered to be a clarifying regulation of current practice according to section 73 of the Svalbard Environmental Protection Act. With the proposed exemptions and the right to grant exemption according to section 13 of the regulations, all weighty considerations are

considered to have been taken into account. The direct exemptions are considered to entail fewer applications to the Governor of Svalbard than today.

## 8.4 Speed limit at sea near bird cliffs

### Current regulations

Motor traffic at sea is mainly permitted except for certain areas with a ban on traffic in protected areas. The areas in nature reserves where there is a prohibition against access and passage include islands and islets that are important for ground-nesting birds and such prohibition areas also apply in the sea 300 metres from land or skerries<sup>69</sup>.

Section 30 of the Svalbard Environmental Protection Act has also a prohibition against hunting, capturing and injuring fauna in general and that also applies to access and passage at sea, as well as a prohibition against using ship sirens, firing shots or producing other loud noise closer to a bird cliff than one nautical mile in the period 1 April to 31 August. For example, the prohibition against noise could affect the dropping of anchors close to the bird cliffs.

Boat traffic must otherwise take place within the rules that apply in general to access and passage. This means that all access and passage shall take place in a way that does not harm, pollute or in any other way damage the natural environment or cultural remains or lead to unnecessary disturbance to humans or wildlife, cf. section 73, second paragraph of the Svalbard Environmental Protection Act.

Beyond this, the Svalbard Environmental Protection Act does not have special provisions that protect bird cliffs from disturbances from shipping and boat traffic.

### Proposal

It is proposed that the new section 12c of the Regulations relating to motor traffic in Svalbard shall state that the speed limit for motor traffic at sea may not be than 5 knots at a distance of 500 metres from land outside bird cliffs. The regulation is proposed to apply to selected bird cliffs where the need for regulation is considered to be greatest. The 500-metre zone outside these bird cliffs has been shown on the chart in Annex 3 of the Regulations relating to motor traffic in Svalbard. The speed limit is proposed to apply in the period 1 April to 31 August, which is the most vulnerable period for seabirds and coincides with the period stated in section 30, third paragraph of the Svalbard Environmental Protection when it is prohibited to produce noise, etc. in the proximity of bird cliffs.

In the Bjørnøya Nature Reserve, access and passage are prohibited within a large zone around the bird cliffs on the southern tip of the island due to the large nesting colonies of seabirds there. The

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<sup>69</sup>Section 31 of the Regulations relating to the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves, and the bird reserves in Svalbard

prohibition against access and passage extends up to 2 km out into the sea but the ban does not apply to boats up to 40 feet. It is proposed that the same speed restriction 500 metres from land introduced for the other bird cliffs is also introduced for boats that can currently travel in the access prohibited zone in section 9 of the Regulations relating to the conservation of the Bjørnøya Nature Reserve in Svalbard.

### Reasons

The purpose of the proposal is to protect the bird colonies and adjacent sea areas from disturbances and noise from boats and ships. Sea areas close the large bird colonies have a very important ecological function and are hotspots for auks. These sea areas are used for resting and foraging and are also very important when the auks take off from the nest shelf. In this phase, the chicks are at a very vulnerable phase and will be drawn to the sea under the bird cliffs. The speed restriction will help reduce the cumulative environmental effects to which the seabirds are exposed. Measures to reduce human disturbances are in line with the recommendations given in the draft National Action Plan for Seabirds (the Norwegian Environmental Agency 2021).

### Background

Ships and high-speed small boats that easily drive close to shore can cause major disturbances and damage to the bird cliffs. Species such as kittiwakes, guillemots and Brünnich guillemots nest on the bird cliffs and are particularly susceptible to disturbances from boat traffic. Several colonies where these species nest are easily accessible and are regularly visited by tourist boats, both cruise ships and small boats. For example, this applies to Mariasundet/ Midterhuken (Bellsund), Diabasodden (Isfjorden), Fuglefjella (Isfjorden), Ossian Sarsfjellet (Kongsfjorden) and Alkefjellet (Hinlopen). During the nesting season (May-August), some colonies may be visited almost daily by boats, which entails a high risk of disturbance and damage.

Noise from boats and ships can cause nesting birds to abandon the nesting site and leave eggs and chicks with no protection against predators. Eggs and nestlings can also fall off the cliffs as a result of disturbances. In the sea, close to the bird cliffs, there may also be large colonies of birds and therefore, traffic at sea must take due consideration for these. The birds are easily disturbed particularly in the period when the chicks are about to jump and when there may be a large number of chicks in the sea.

The disturbances can affect the breeding success, survival and future reproduction of seabirds. All 10 assessed seabird species<sup>70</sup> on the Red List for Svalbard are on the Norwegian Red List for species due to population decline or small population size<sup>26</sup>. The Brünnich's guillemot is one of the most common seabirds in Svalbard and is described as an indicator species. Brünnich's guillemots are red-

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<sup>70</sup> Auk, glaucous gull, kittiwake, king eider, long-tailed skua, guillemot, Brünnich's guillemot, ivory gull, Sabine's gull and red-necked phalarope.

listed under the category near threatened (NT) in the last published Red List for Species due to a dramatic population decline and could be re-categorised to the vulnerable category (VU) in a new red list expected to be published in October 2021. The reasons for this dramatic decline are believed to be linked to several factors, such as lack of prey, hunting in overwintering areas outside Svalbard, by-catches and human disturbances<sup>71</sup>. It is not possible to implement measures at the local (or national) level to reducing the effect of influencing factors such as climate change and food shortages. Therefore, the proposal is primarily important for reducing local negative influencing factors and through this contribute to reduce the cumulative environmental effects on the seabird populations.

There is a large number of bird cliffs in Svalbard and the proposal concentrates on a selection of bird cliffs that are considered particularly vulnerable to disturbances from motor traffic in the sea. The areas close to the proposed bird cliffs are areas of the highest value in the Primos dataset<sup>71</sup> (value category 3) and include colonies with more than 100,000 birds. In addition, the speed restriction is proposed to be introduced in connection with Diabasodden and Ossian Sars (which corresponds to value category 2 with more than 50,000 birds), as well as Pilarberget and Midterhukken. The latter are bird cliffs that are particularly susceptible to disturbances because they are easily accessible.

Disturbances of colonies on the bird cliffs during the nesting season can be reduced by keeping boats at a sufficient distance and ensuring that the speed close to the bird cliff is not too high. At lower speeds, noise is reduced, which is a significant disturbance factor and it becomes easier for the boat driver to pay attention to flocks of birds in the sea so that the birds can swim calmly away rather than flee in panic. Professional recommendations from the Norwegian Polar Institute are that motorboats should not approach seabird colonies at a speed greater than 5 knots to minimise the risk of disturbing the birds sitting on their nests and birds in the sea. It is estimated that disturbances occur from 200 metres away from the bird cliff in calm sea and 1,000 metres away from the colony at high speed in rough seas. It is proposed that a speed limit of 5 knots be set for motor traffic in the sea closer than 500 metres from land outside the bird cliffs.

Professional recommendations from the Norwegian Polar Institute are that the distance between bird cliffs and motorboats should not be less than 50 metres to avoid disturbance of nesting birds. Disturbances that occur due to ships and boats sailing too close to the bird cliffs could be affected

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<sup>71</sup> The Primos dataset was designed to identify vulnerable areas that would be particularly vulnerable to acute pollution. The dataset has emphasised describing vulnerable resources during period where there is coastal traffic. Therefore, for seabirds, it is the occurrence and vulnerability of colony-breeding birds in the nesting season that has been assessed and that has been given a place in the dataset. The dataset is divided into three value categories, where the size of the colony and the red list status of species form the basis for the valuation. The proposed regulation applies to bird cliffs in category 3 (highest importance) as well as 4 areas that are known to have a large number of visits by boats. The charts can be found on the emergency preparedness website of the Norwegian Coastal Administration: <https://beredskap.kystverket.no/>



by the due care provisions of the Svalbard Environmental Protection Act, and therefore, it is still important that the advice on access and passage is followed.

#### Consequences of the proposal

The proposal will reduce the risk of disturbances and harm to seabirds in seabird colonies sought out by tourists and others in the period 1 April - 31 August. The provision will apply to any person who travels at sea, including boats that do not specifically visit colonies, but sail too close to these during passage (e.g., boats that travel to Pyramiden or Barentsburg daily at high speed). The proposal does not limit the possibility to experience bird cliffs during the nesting season as long as the speed limit and duty of care in the Svalbard Environmental Protection Act are followed.

The Svalbard Map<sup>72</sup> and the Norwegian Coastal Administration's "Kystinfo" Service<sup>73</sup> currently provide digital information services on regulations at sea and the speed limit should be included in such chart services so that the information can easily be used on site. Kystinfo currently shows speed limits for the mainland. The Norwegian Coastal Administration has also recently launched an app that can show the speed limit where the boat driver is located and alerts if the speed is too high.

## **8.5 Minimum distance from haul-sites for walrus for motor traffic at sea**

#### Proposal

Motor traffic at sea near haul-out sites for walrus has not been specifically regulated today beyond the due care provision of section 5 and 73, second paragraph of the Svalbard Environmental Protection Act and the prohibition against pursuit, etc. in section 30, first paragraph of the aforementioned Act.

A prohibition against motor traffic at sea closer than 300 metres from haul-out sites for walrus is proposed in section 12b of the Regulations relating to motor traffic in Svalbard. Walrus haul-out sites means places on land where there are several walrus together. Haul-out sites for walrus are places the walrus returns to year after years to rest, mainly in herds.

#### Reasons

The purpose of the proposal is to protect walrus on land against disturbances from boat traffic.

#### Background

Walrus are categorised as vulnerable (VU) on the Red List due to their low population size. Human disturbance is one of the influencing factors together with habitat impact and climate change. The

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<sup>72</sup> <https://www.npolar.no/kart/>

<sup>73</sup> <https://a3.kystverket.no/kystinfo>

population in Svalbard is growing rapidly but is still low compared with the original population before conservation. Walrus spend a lot of time lying still on land and walrus haul-out sites are attractive visitor destinations.

In its guide on access and passage and wildlife in Svalbard, the Norwegian Polar Institute recommends that landing from boats should take place at least 300 metres from the haul-out site to avoid disturbances of walrus. The guide also contains advice on access and passage on land, where it is recommended not to go closer than 50 metres from males and 150 metres from females.

Walrus haul-out sites are visited regularly and it can be tempting to approach a haul-out site by boat. Disturbances of walrus can cause to flee in panic and if there are pups in the herd, these can be squeezed to death.

It is proposed that motor traffic at sea must keep a distance of at least 300 metres from haul-out sites for walrus in line with the access and passage advice. No specific provisions on a minimum distance to walrus are proposed for access and passage on land, but the due care provision in sections 5 and 73, second paragraph of the Svalbard Environmental Protection Act and the clarifying new provisions on access and passage in protected areas (see section 6.7) will regulate this traffic.

The term haul-out site is an established term in Svalbard and applies to areas that walrus use year after year. However, it is not clearly defined which areas this is, as haul-out sites may be used very little and new may appear. In the proposal, haul-out site means areas where two or more walrus lie together on land.

#### Consequences of the proposal

The proposal will provide increased protection for walrus against disturbances at haul-out sites. Since all traffic is already subject to the duty of care in sections 5 and 73 of the Svalbard Environmental Protection Act and the proposed minimum distances are recommended in the access and passage advice from the Norwegian Polar Institute, it is assumed that the regulation does not entail major consequences. Boat drivers can use a distance meter or maintain a good safety margin to keep the minimum distance.

## **8.6 Prohibition against underwater vehicles**

### Proposal

The use of underwater vehicles has not been regulated in the environmental regulations in Svalbard today but will be subject to the general regulations that apply to all traffic.

We propose a general ban on the use of underwater vehicles in section 12d of the regulations relating to motor traffic in Svalbard. The prohibition also applies to underwater vehicles sailing on

the surface, provided that the vessel is not in innocent passage. According to section 13 of the Regulations relating to motor traffic in Svalbard, the Governor of Svalbard may grant exemption when the purpose of the Svalbard Environmental Protection Act so requires for scientific purposes, work of important public interest and in other special cases. The Norwegian Environment Agency finds that the provision is sufficient for those cases where it would be desirable to grant an exemption, e.g., in connection with mapping, monitoring and research. A definition of underwater vehicles is also proposed in the new section 3 letter j) of the Regulations relating to motor traffic.

### Reasons

The purpose of the ban is to prevent disturbances to wildlife if there should be a market for the use of underwater vehicles in Svalbard.

### Background

Underwater vehicles are used in many places around the world for tourist activities and other purposes such as research, nature photography and private expeditions.<sup>74</sup> There are many types of underwater vehicles and new types are being developed.

Disturbance of the marine life by underwater vehicles may vary depending on how deep the vessel is manoeuvred, the size of the vessel, the noise level and use of light sonar and any use of lures to attract animals. The time of the year and the day the vessel is used, as well as which species are in the immediate area and the conditions for the individuals are also factors that are of importance for the disturbance effect. However, the absence of noise is important for most marine vertebrates. Noise and interference with acoustic functions could have varying degrees of negative consequences for wildlife communication, foraging, navigation and protection/flight behaviour for predators.<sup>75</sup>

Underwater sound levels are generally lower in the Arctic than in non-polar regions due to the presence of fast ice and generally less human activity here compared with other sea areas. The Arctic is also home to several endemic marine species that have sound as an important part of their biological function. Sound is important to many marine animals as they can only see over short distances while they can hear sounds over long distances as sound is spread better than light in water. Many forms of marine life use sound as their primary means of communication to navigate, locate a mate, search for prey and to avoid predators or dangers. Activities that can produce underwater noise can affect these functions and cause stress<sup>76</sup>. Stress reactions can lead to increased energy demand, which in turn can affect survival and reproduction.

There are large gaps in knowledge to gain a complete understanding of the effect of underwater noise on marine mammals, fish and invertebrates<sup>76</sup>. However, the environmental objectives in

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<sup>74</sup> Today, expeditions using underwater vehicles are carried out to the wreck of the Titanic, which lies at a depth of 3.8 kilometres.

<sup>75</sup> The potential environmental effects of using underwater vehicles to observe wildlife in Svalbard, Norwegian Polar Institute 1 September 2017

Svalbard mean that efforts must be made to ensure that the natural environment is as unaffected as possible by human activity. The use of underwater vehicles will put an additional strain on the marine environment in addition to the existing traffic from ships and small boats and therefore, against which it should be protected.

#### The right to innocent passage

The right to innocent passage also applies to underwater vehicles, but in the territorial waters they shall sail on the surface to be covered by the right, see Article 20 of the UN Convention on the Law of the Sea. See section 6.6 for more on the sovereignty of the coastal state and vessels from the right of all States to innocent passage.

#### Consequences of the proposal

The proposal will mean that underwater vehicles are not used in Svalbard. Without the proposal, there would be a risk of increased disturbances of the marine wildlife if underwater vehicles were to be used more in the future. As the use of underwater vehicles is not widespread in Svalbard today, the proposal will have no or only minor consequences for today's use. For research and monitoring, it is assumed that the use of underwater drones will largely meet the need for underwater surveys. In addition, the proposal means that an application must be submitted to the Governor of Svalbard for permission to use subsea vessels.

## **8.7 Motor traffic in planning areas**

### Proposal

In the planning areas, necessary traffic with motor vehicles is permitted in connection with raw material extraction, building and construction work and operation and maintenance of buildings and other infrastructure in the settlements, cf. section 6 of the Regulations relating to motor traffic in Svalbard. In areas with an approved land-use plan, this is only permitted in connection with activities that are in accordance with the plan. Since the use of snowmobiles (and tracked vehicles for permanent residents) in the planning areas is generally permitted, the provision has the greatest impact on when it is possible to drive on bare ground.

A clarification of the provision is proposed so that motor traffic can only take place when there is an approved land-use plan and the activities are in accordance with the land-use plan. In other cases, driving on snowless ground will require an application and permission from the Governor of Svalbard according to section 13. It is further proposed that access to such driving for building and construction work on cabins cannot take place according to section 6. Motor traffic for this purpose is proposed regulated in that upon application, the Governor of Svalbard can grant permission for such driving according to the new section 13, first paragraph, letter c).

### Reasons

Direct access for motor traffic on snowless ground without an application should only be permitted where it has been considered in the land-use plan that such activities can take place and therefore, the provision should be clarified in line with this.

Motor traffic in connection with building and construction work on snowless ground in connection with work on cabins should be limited as some cabin areas are located in planning areas, but in relatively untouched terrain without a road connection. In these areas it is desirable, for the sake of the terrain, to be able to control this driving through the establishment of conditions, e.g. where it is possible to drive and when. Therefore, it is proposed that a permit for motor traffic must be applied for in connection with building and construction work on cabins in the planning areas according to section 13, first paragraph, letter c).

### Consequences of the proposal

The proposal means that motor traffic according to section 6 will not be directly permitted in land-use planning areas without an approved land-use plan, i.e., currently for the planning areas at Svea and Colesbukta. Following the closure of the mining activities at Svea, these are now areas without activity and there is also no need for such motor traffic in these areas. Permanent residents and visitors will be able to use snowmobiles in both areas and the proposal is therefore not considered to have consequences for the current activities.

The proposal that the provision does not apply to building and construction work on cabins entails that an application must be made for motor traffic on snowless ground for this purpose. We consider that the proposal will not cause major inconvenience to those affected and that motor traffic for transport of equipment and building materials for cabins that have no road connection may take place with the use of snowmobiles in winter or upon application.

## **8.8 Use of electric bicycles on snow-covered and frozen ground**

Electric bicycles are regarded as motor vehicles both under section 3, letter k) of the Svalbard Environmental Protection Act and section 3, first paragraph, letter c) of the Regulations on motor traffic in Svalbard. Therefore, the prohibition against motor traffic in the terrain away from a road and place constructed for this purpose according to section 79, second paragraph of the Svalbard Environmental Protection Act and sections 5 and 6 of the Regulations also apply to electric bicycles.

It is proposed to be laid down in sections 8 - 8c of the Regulations on motor traffic in Svalbard that electric bicycles may be used on frozen and snow-covered ground in the same areas and on the same conditions as specified for snowmobiles and tracked vehicles. The proposal is justified by the fact that the use of electric bicycles has less environmental impact than the use of snowmobiles and tracked vehicles and therefore, should be permitted in the same areas as these are permitted. It is

not desirable to allow e-cycling in the terrain on snowless ground as this can cause damage to the terrain and the vegetation.

In the protection regulations for the Sassen-Bünsow Land, Nordre Isfjorden, Van Mijenfjorden and Indre Wijdefjorden National Parks, there is currently a general ban on the use of bicycles. It is proposed that the ban in these national parks be amended so that use of bicycles is allowed only on snow-covered and frozen ground. This means that the use of a regular pedal bicycle without an auxiliary motor will also be allowed on frozen and snow-covered ground for permanent residents and visitors to the national parks. The use of bicycles on bare ground will still be prohibited. The rules on the use of snowmobiles will guide where permanent residents and visitors can use electric bicycles.

The proposal entails greater access to the use of electric bicycles in the terrain both for permanent residents and visitors by allowing electric bicycles to be used in the terrain on snow-covered and frozen ground in the same areas as they can use snowmobiles. The proposal also means that ordinary pedal bikes can be used in the Sassen-Bünsow Land, Nordre Isfjorden, Van Mijenfjorden and Indre Wijdefjorden National Parks in the terrain on snow-covered and frozen ground, where cycling is prohibited today.

## **8.9 Fuel quality requirement (amendments to the protection regulations)**

In the Northeast Svalbard and Southeast Svalbard Nature Reserves and the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, it is prohibited to use or have on board other fuels than DMA quality in accordance with ISO 8217 Fuel Standard for ships calling at the protected areas, cf. section 4, second paragraph and section 16, first paragraph of the Regulations on the South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, the Northeast Svalbard and Southeast Svalbard Nature Reserves and bird reserves in Svalbard. The requirement means that it is prohibited in these protected areas for ships to use heavy oil or have heavy oil on board.

From 1 January 2022, it is prohibited for ships calling in territorial waters around Svalbard to have on board petroleum-based fuel with a higher density, viscosity or point of solidification than for marine gas oil, cf. new section 82a of the Svalbard Environmental Protection Act. This applies from 1 January 2024 for goods transport to and from Longyearbyen and Barentsburg. The requirement for the use of DMA quality fuel in accordance with ISO 8217 Fuel Standard in the protected areas will be lifted when the general heavy oil ban comes into force.

## 9. Camping activities

### 9.1 Current regulations

Camping activities in Svalbard are currently regulated in several regulations. Provisions can be found in the Regulations relating to camping activities in Svalbard, protection regulations, regulations relating to tourism, field activities and other travel activities in Svalbard (the Tourist Regulations) and section 57 of the Svalbard Environmental Protection Act relating to the requirement of a permit for accommodation services to the general public and temporary facilities. The Camping Activity Regulations partly overlap with the Tourist Regulations in the sense that the Tourist Regulations require tour operators, research and educational institutions, as well as individual travellers to notify the Governor of Svalbard about field and tour activities (according to section 8 of the Regulations) and this also includes camping activities. The Tourist Regulations are under revision and the proposal for new field safety regulations to replace this will be submitted for consultation in the autumn of 2021.

Section 76 of the Svalbard Environmental Protection Act provides the authority to issue regulations on the regulation of camping activities. The Camping Activity Regulations contain further provisions on where and how camping activities in Svalbard can take place. The following is a review of the amendments proposed in the Camping Activity Regulations.

### 9.2 Proposed amendments to the Camping Activity Regulations

#### Definitions

We propose defining the terms camping activities, tourist activities, field activities and research and education activities in a new section 2a to clarify the meaning of these.

The definitions of tourist activities, field activities and research and education activities are in line with the proposed definitions in the proposed new field safety regulations.

#### Permit requirement

The Camping Activity Regulations require a permit for camping activities that involve the provision of overnight accommodation for the general public, cf. section 3 and the notification of camping activities at the same location for one week or more, cf. section 4. The current provision in the Camping Activity Regulations means that a small tent set up for 3 days, to provide overnight accommodation to the general public, will require an application for permission according to section 3 of the Camping Activity Regulations, which refer to section 57 of the Svalbard Environmental Protection Act. A large lavvo that is set up for 6 days and is only to be used for dining for tourists, is neither subject to application or notification under the Camping Activity Regulations.



It is proposed that the notification requirement in the current section 4 of the Camping Activity Regulations be replaced by a permit requirement as it is difficult to find a good justification for the distinction between the two different provisions in sections 4 and 5 relating to notification and permission. We believe it is appropriate to coordinate the regulations so that the terms used in the proposed new field safety regulations and the camping activity regulations are as similar as possible. We also believe that all organised activities in the field should be subject to an application requirement. Based on this, a requirement for a permit for camping activities for tourist activities, field activities and research and education activities is proposed.

We also propose a permit requirement for activities other than the activities stated above when these are to take place at the same location for one week or more. No amendment is proposed to the regulation of other camping activities for a shorter period than 1 week. This means that it will still be possible for, for example, permanent residents to go on shorter trips and staying overnight without prior permission.

As a general application requirement is introduced for tourist activities, among other things, we propose removing the current reference to section 57 of the Svalbard Environmental Protection Act in section 3 of the Camping Activity Regulations.

The Camping Activity Regulations do not currently apply to camping activities in land-use planning areas that are specifically regulated for this in the land-use plan, section 2, second paragraph. A continuation of it not being necessary to have a permit for camping activities in such areas is proposed. However, it is proposed that the provision is moved from section 2, second paragraph to section 3, final paragraph of the Camping Activity Regulations so that the regulations other requirements relating to camping activities in Chapter III, will also apply to camping activities in such areas. The requirements set out in Chapter III and which deal with avoiding damage or wear and tear to the vegetation, clearing up afterwards and where a campfire site can be established, among other things, should also be followed in an area designated for camping activities according to the land-use plan.

#### Requirements relating to the application

As a result of the proposal to replace the notification obligation with a permit requirement, section 4 of the Camping Activity Regulations relating to the requirement for what a notification shall contain, must be amended. We propose amending the provision so that there is an application requirement and not a notification requirement. Some linguistic changes are also proposed. There is no need to continue that the Governor of Svalbard can grant exemptions from the provision.

#### Permission

In accordance with the proposal to replace the notification requirement with a permit requirement, the current section 5 relating to amendment of or prohibition against camping activities must also

be amended. It is proposed that the new section 5 contains a provision that specifies factors to be emphasised in the assessment of whether a permit should be granted. In section 5, second paragraph, the reference to notified plans must be amended so that it is stated that the Governor of Svalbard may change the terms of the permit, set new terms and if necessary, withdraw the permit for planned or already commenced camping activities if there is reason to fear danger as stated in the first paragraph of the provisions. This is in accordance with the authority the Governor of Svalbard has today to be able to change planned camping activities that have been notified.

#### Measures to avoid and possibly ward off polar bear attacks

The current provision in section 11, first paragraph of the Camping Activity Regulations is proposed to be deleted as this is only a repeat of the provision on protection of polar bears in section 30, fourth paragraph of the Svalbard Environmental Protection Act.

In light of various polar bear incidents in recent years, additional requirements must be included to be better able to ward off polar bear attacks. It is proposed that the current section 11, fourth paragraph is amended so that a new requirement is introduced for having a vigilant and organised polar bear watch during camping activities that require a permit according to section 3, first paragraph. The requirement is limited to cases where there are people in the camp. The background for the proposal are experiences that have shown that trip flares and/or watchdogs may be inadequate. The proposal is widely considered to be in line with existing practice but is nevertheless an important clarification. The proposal applies to camping activities in connection with tourist activities, field activities and research and education activities. For camping activities in other cases, the requirements for implementing the necessary measures to avoid the risk of attacks from polar bears and the requirements for appropriate measures in the camp apply to frightening away according to the first paragraph. This means that staying in a camp for several days requires polar bear protection of the area but there is no requirement for a vigilant polar bear watch, although this is recommended.

#### Penal measures

Section 12 of the Regulations relating to penal measures fully reiterates the provision in section 99 of the Svalbard Environmental Protection Act relating to penal measures, but it has not been amended following the increase in the minimum and maximum penalties there. Section 12 of the Camping Activity Regulations is proposed amended by referring to section 99 of the Svalbard Environmental Protection Act, which is in line with normal legislative techniques.

### **9.3 Consequences of the proposals**

The proposed permit requirement for camping activities will provide increased protection of the natural and cultural environment by allowing the Governor of Svalbard to direct such activities to a greater extent to places and times of the year when the vegetation, wildlife and cultural remains can withstand this. The proposal will also provide a more coordinated and clearer set of rules where

it is clear what requires an application, when an application should be made, and what it should contain. A change from a duty to notify to an application requirement is not considered to require increased resources from the individual actor.

The application requirement entails an increased workload for the Governor of Svalbard in the form of application processing. At the same time, the existing duty to report is also demanding: all reports must be reviewed and not infrequently, planned organised tours require changes, not least when the Governor of Svalbard must change the planned organised tour. Therefore, overall, the transition from a duty to report to an application requirement does not require significantly increased resources.

For most actors, the requirement for a vigilant and organised polar bear watch is in line with existing practice and is not considered to require increased resources. The safety requirement is strict and entails the implementation of measures and the use of resources. These will be released where measures other than a polar bear watch have previously been used.

## **10. The use of unmanned remotely controlled devices (drones), etc.**

### **10.1 Current regulations**

The use of unmanned aerial vehicles (drones) is regulated in Regulation no. 2460 of 25 November 2020 relating to aviation with unmanned aerial vehicles in open and specific categories. laid down by the Ministry of Transport and Communications according to the Norwegian Civil Aviation Act. The Regulations make EU regulations in this area applicable as Norwegian law and also apply in Svalbard. In the EU regulations, unmanned aerial vehicles mean all types of vehicles operated in the air without a pilot and the term includes all types of drones, including model aircraft<sup>76</sup>. The EU regulations and the regulation provide rules on how drones can be operated and other aviation requirements. Section 8 of the Regulations prohibits the flying of unmanned aerial vehicles closer than 5 km from an airport without a permit from the local air traffic service unit. For Svalbard, this means that it is prohibited to fly unmanned aerial vehicles in a zone with a radius of five kilometres from the airports in Longyearbyen and Ny-Ålesund without such a permit. In Ny-Ålesund it is also prohibited to use drones (with certain radio frequencies) on a zone of 20 km around the town. Overall, this means that there are restrictions on the use of unmanned aerial vehicles today in Ny-Ålesund, Kongsfjorden and large parts of Longyearbyen.

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<sup>76</sup> However, regulations relating to aircraft that do not have a pilot on board distinguish between aircraft that do not have a pilot on board and model plans based on the purpose of the flying

The use of underwater drones, motorised model boats and unmanned ground-travelling devices is not directly regulated in Svalbard. In many of the protected areas on the mainland the use of drones, motorised model planes and model boats is prohibited.

The use of unmanned vessels and other remotely controlled devices is not directly regulated in the environmental regulations in Svalbard and is not regarded as motor traffic, cf. section 3, first paragraph, letter i) of the Svalbard Environmental Protection Act. Although the use of drones, etc., is not directly regulated, their use may be affected by other provisions of the Svalbard Environmental Protection Act. If the drone is used in a way that frightens, pursues or unnecessarily disturbs the wildlife, this will be contrary to the due care provisions in sections 5 and 73, second paragraph and the prohibition against pursuing, etc. in section 30.

## **10.2 Proposal on the regulation of unmanned remotely controlled devices (drones), etc.**

A prohibition against the use of unmanned vessels (drones) and other remotely controlled or autonomous unmanned devices in the air, on the ground and on and under water, is proposed in the protected areas in Svalbard. It is proposed that the prohibition shall not apply in connection with emergency operations by the fire and rescue services and the police and inspection or supervision activities according to sections 77 and 87 of the Svalbard Environmental Protection Act. The protection regulations already provide an exemption from the protection provisions for these purposes and this exemption is also proposed to apply to the use of drones, etc. It is also proposed that the administrative authority for the protected area can use drones, etc. to conduct administrative tasks (all the tasks the administrative authority has). For other purposes, it is proposed that, upon application, the Governor of Svalbard may grant permission for the use of drones and other such devices. The Governor of Svalbard's right to grant permission is proposed limited to other purposes than recreational and hobby purposes.

The provisions are generally formulated to include all remotely controlled and autonomous vessels and devices operated in the air, on the ground, on and under water and will include the use of air drones (including model planes), underwater drones, motor-driven model boats and motor-driven ground-going devices.

The prohibition is proposed to be included in all protected areas and is proposed formulated as follows:

*It is prohibited to use unmanned vessels (drones) and other remotely operated or autonomous unmanned devices in the air, on the ground, on and under water.*

In most protected areas, amendments to the exemption provisions are proposed for community services such as police tasks and fire and rescue operations and inspection/supervision activities to show that drones and other devices can be used for the same purposes and the tasks of the administrative authorities:

*- the use of unmanned vessels (drones) and devices as stated in section 4, item 6 for the same purposes as stated in the indent above and for use in the administrative authority's tasks*

In most protected areas, it is proposed that the administrative authority may grant permission for:

*- the use of unmanned vessels (drones) and devices as stated in x for purposes other than recreational and hobby purposes.*

At the Moffen Nature Reserve, the existing provisions provide sufficient exemption from the prohibition against the use of drones, as there is generally an exemption in the regulations for police tasks and operations by the fire and rescue service, as well as for supervision purposes, which will also apply to the use of drones. Furthermore, the provision that the Governor of Svalbard may grant an exemption in connection with scientific studies and other special cases is considered to be sufficient exemption provisions for the Moffen and Ossian Sars Nature Reserves, as well as the bird sanctuaries.

#### Proposal for the regulation of the use of unmanned aerial vehicles in the proximity of bird cliffs in the Svalbard Environmental Protection Act

A prohibition against the use of unmanned aerial vehicles (drones) closer to bird cliffs than 500 metres is proposed in section 30, third paragraph of the Svalbard Environmental Protection Act for the period between 1 April to 31 August. The proposal will have the greatest impact on the use of unmanned aerial vehicles near bird cliffs outside protected areas due to the proposed prohibition in the protected areas. However, in cases where permission is granted according to the protection regulations, the distance from bird cliffs requirement will still apply unless exemptions are also made according to the Svalbard Environmental Protection Act for proposed distance requirements.

The existing provision of section 77 of the Svalbard Environmental Protection Act means that unmanned aerial vehicles can be used closer to bird cliffs than the proposed minimum distance if this is necessary in connection with performing police tasks, the Governor of Svalbard's necessary inspection activities, as well as in connection with operations by the fire and rescue services.

The provision is proposed formulated as follows:

*No one must use unmanned aerial vehicles (drones) closer than 500 metres to a bird cliff in the period 1 April to 31 August.*

### 10.3 Reasons

The purpose of the proposals is to limit disturbances to the wildlife and avoid disruptive use for outdoor activities in the protected areas. The potential for harmful use increases, when these devices are used by people who are not familiar with the possible disturbance effects, and the proposed regulation will mean that the use of drones will be left to professional actors to a greater extent.

### 10.4 Background

There has been a substantial increase in the sale and use of drones over the past 10 years and the use has increased further in recent years. The development of small drones with high-resolution cameras, and remote control via tablets or mobile phones has created an enormous development in drone use. Drones are currently used by private individuals, researchers, public authorities and others for many different purposes.

The largest increase is in the use of smaller drones used in the air. Underwater drones are a relatively new technology and still have limited use. However, sales of underwater drones have risen sharply in recent years and the technology is under development. It cannot be ruled out that in the future, small and cheap underwater drones will be developed that become “common property”. There are several types of underwater drones; drones that are physically connected to the operator by cables (ROV) and self-propelled underwater robots (AUV).

Ground-going unmanned devices are known from the mainland and other countries. These are used for animal photography, among other things, but have not been used to the same extent as unmanned aerial vehicles (drones) and underwater drones.

The use of drones and other devices can be used for a variety of useful purposes. Unmanned aerial vehicles are well-suited for use in connection with search and rescue operations, monitoring and research on mammals, birds, sea ice and glacier research, climate monitoring, monitoring of wear and tear in the terrain and of cultural remains to name a few. Underwater drones can also be used by the emergency services in search and rescue, inspection of installations at sea, filming, research and mapping of natural values or cultural remains under water. Underwater drones make it possible to take measurements and data collections where it is otherwise not easy to access.

Drones may be preferable for, for example, monitoring and gathering information over more environmentally-burdened methods, such as flying helicopters or walking on foot. The use of drones can also be labour-saving and more efficient than the use of traditional methods. In some cases,

drones and other remotely controlled devices will be required because the information cannot be collected in any other way or because access and passage entails too great a safety risk.

The increase in the use of drones has led to concerns about the impact this may have on wildlife. Through direct and indirect studies, the Norwegian Polar Institute has found that the use of drones can trigger a fear reaction in birds.<sup>24</sup> There have been reported cases where birds have attacked multi-copter drones and waders and birds of prey have been observed with such aggressive behaviour towards drones. In a recently published master's thesis on drones and marine mammals in Svalbard, this has been elaborated for sea mammals with recommendations for how drones should be used to minimise the risk of impact, such as minimum distances that should be kept to walrus and harbour seal colonies<sup>12</sup>. The study showed that polar bears were sensitive to drones and that the flying distance should be as large as possible as the disturbance effect does not necessarily manifest itself in altered behaviour.

The use of drones on and under water can have an impact on the marine environment in the same way as the use of underwater vehicles. Undesirable noise levels from underwater drones can have a disruptive effect on marine wildlife and cause a change in behaviour. Curious animals that seek out the drones can be directly injured by getting stuck in cables and the like. Reference is also made to the discussion on the negative effects of the use of underwater vehicles in Section 8.6.

A US study<sup>77</sup> points to the increasing use of small ROVs and that inexperienced recreational users have a significant potential for disturbances of marine mammals and ecosystems and it is recommended that such drones should not be used where marine mammals are active. Studies<sup>77</sup> that make recommendations on guidelines that should be followed when using drones in Svalbard to disturb the wildlife to the least extent possible may in practice be very important for, for example, research activity to minimise the potential for disturbances and injury. Such guidelines are detailed and are not considered appropriate to introduce into laws and regulations.

The disturbance effect on wildlife can be similar for ground-going vehicles partly due to how close these are steered towards animals. Heavy unmanned devices can also cause wear and tear in the terrain in the same way as motor traffic.

Drones can also be disruptive to outdoor life. Peace and tranquillity are one of the important qualities of experiencing the wilderness and the protected areas in Svalbard. In many of the protected areas, experiencing the natural heritage is an important purpose of the protection and therefore, the use of drones should also be limited in the protected areas for this reason.

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<sup>77</sup> The Norwegian Polar Institute (2016). Compilation of knowledge about the use of unmanned vehicles/drones in Svalbard.



The use of unmanned aerial vehicles close to bird cliffs during the nesting season may cause major disturbances to a large number of nesting birds, with consequences in the form of reduced breeding success and reproduction. Seabirds located on bird cliffs and nearby sea areas in the nesting season are species that are red-listed and that need protection from disturbances at this time of year. Section 30, third paragraph of the Svalbard Environmental Protection Act prohibits the use of ship sirens, firing shots and producing other loud noises closer to a bird cliff than 1 nautical mile in the period 1 April to 31 August. Regulation of unmanned aerial vehicles close to bird cliffs is proposed to be laid down together with this provision to ensure that unmanned aerial vehicles do not cause disturbances to seabirds in the most vulnerable period of the year. If it is considered that there should be a ban on the use of unmanned aerial vehicles (drones) at a distance closer than 500 metres from bird cliffs in the period 1 April to 31 August. This minimum distance is considered to protect seabirds on bird cliffs and when foraging in adjacent sea areas outside the bird cliffs against distance and provide a good safety margin against disturbances from most operations with unmanned aerial vehicles. The minimum distance of 500 metres proposed is the same distance from bird cliffs as applies to the proposed speed limit at sea (at selected bird cliffs) in Section 8.4

## 10.5 Consequences of the proposals

The proposal will reduce the risk that the use of unmanned aerial vehicles (drones) causes disturbance effects to wildlife, as well as reduce the risk of disruptive use for outdoor life in the protected areas. The risk of disturbance effects on wildlife from the use of underwater drones and remotely controlled devices on the ground in the protected areas is also reduced should such be used in the future to a greater extent than today. The regulation in the vicinity of bird cliffs will reduce the risk that unmanned aerial vehicles (drones) cause disturbances and injure seabirds during the nesting season.

The proposal entails a disadvantage for those who want to use drones, etc. for recreational and hobby purposes in the protected areas and these will have to use drones outside protected areas and at a proposed distance from bird cliffs. However, drones and other such devices will still be able to be used for, for example, photography for other purposes than recreational and hobby purposes if the Governor of Svalbard grants permission.

Drones can also still be used for research and monitoring but require an application and permit from the Governor of Svalbard in protected areas and areas closer than 500 metres to bird cliffs in the nesting season. Many research and monitoring tasks already require an application and permit from the Governor of Svalbard and applications for the use of drones can be incorporated in other applications that must be submitted.

Since the prohibition will not apply in connection with police tasks and operations by the fire and rescue service, as well as inspection and supervision activities according to sections 77 and 87 of the Svalbard Environmental Protection Act and for the administrative authority's tasks, the proposal does not entail a change in their right to use drones for such purposes.

The proposal is considered to have moderate consequences for tourist activities. The Association of Arctic Expedition Cruise Operators (AECO) already prohibits the use of drones on its members' ships and these represent the majority of the cruise ships. Tour operators will not be free to use drones in protected areas in connection with advertising and the like but can apply for permission from the Governor of Svalbard.

Outside the protected areas, the use of unmanned vehicles (drones) and other remotely controlled or autonomous devices may be used for all purposes as long as the specific use does not conflict with other provisions of the Svalbard Environmental Protection Act, the proposal for a minimum distance from bird cliffs and otherwise is according to other regulations (e.g, the aviation legislation).

For the Governor of Svalbard, the regulation of drones may lead to an increase in the number of applications for permits to be processed, also in addition to applications in connection with research and monitoring.

Underwater drones and ground-going devices are used to a lesser extent today than drones in the air and the proposed regulation of such is therefore considered to have small consequences for those affected. Underwater drones can still be used for research and motor with a permit from the Governor of Svalbard, who may also grant an exemption for the use of unmanned, ground-going motor vehicles for such purposes.

## **11. Summary of the most important consequences of the proposals**

The most important consequences for local communities (Section 11.1), tourism (Section 11.2), research and monitoring (Section 11.3) and public authorities (Section 11.4) are summarised in this section. An overall assessment of the consequences has also been made (Section 11.5). A more detailed description of the consequences is given in the individual proposals in the sections above.

### **11.1 Local communities**

The local communities can be affected by the proposals through the consequences of the restrictions on permanent residents' access to wilderness areas and the consequences for tourist

activities as an economic basis for the local community. Overall, the proposals are not considered to have major consequences for permanent residents and local communities.

The regulations that apply to tourist activities entail a channelling of landing at selected sites in many of the protected areas but are not considered to limit the volume of activity compared with 2019. The limitations on the number of tourists that can be set ashore do not include Isfjorden and the protected areas in the Isfjorden area where much of the tourism with the local communities as a base takes place. In the protected areas outside Isfjorden, many sites have also been designated for use. There are still considered to be a good framework for tourist activities as an economic basis for the local communities. The landing proposal applies to tourist activities and does not affect permanent residents or others.

The regulation of motor traffic on sea ice after 1 March will mean that temporary regulations are made permanent for permanent residents and that motor traffic on a few more ice-covered sea areas than today is regulated. The change is not considered to have major consequences for permanent residents because the regulation is largely in line with the temporary regulations of recent years and because it is possible to cross the sea ice on the fjords, as well as drive on the sea ice along the shore on the north side of Van Mijenfjorden. The regulation for Van Mijenfjorden has already been adopted.

For those affected, the proposal of a speed limit of 5 knots at sea when closer than 500 metres to selected bird cliffs in the period 1 April to 31 August entails primarily a requirement for traffic at sea to maintain a low speed in these areas. The proposal is considered to have small consequences for the local communities and their access and passage at sea. There are digital chart services that can be used and that will make it easier to comply with the speed limit. In the case of motor traffic at sea, a requirement is also proposed to maintain a minimum distance of 300 metres from haul-sites of walruses, which is in line with the existing guide from the Norwegian Polar Institute and a new distance provision is proposed for polar bears. These minimum distances will require that permanent residents and others bring with them a distance meter or other equipment out in the field or that they maintain the distances with a good margin beyond the given minimum distances. The consequences of these regulations with regard to permanent residents being able to access nature and for the tourism industry in the local communities are considered to be minor. Nevertheless, they involve new rules that individual and local tour operators must be familiar with and follow.

A general ban on breaking fast ice will involve minor changes for the local communities compared with the current regulations. The ban will not have consequences for supplies to the local communities and the Norwegian Coast Guard's necessary tasks due to the exemptions proposed in the provision.

The proposal for the regulation of unmanned vessels (drones) and other remotely controlled devices in the protected areas means that, as a rule, the use of drones is forbidden here. For the local population, the proposal will mean that the use of drones for recreational and hobby purposes in the protected areas in Svalbard will no longer be permitted. It is proposed that it should be permissible to use drones and other such devices in connection with police tasks and operations by the fire and rescue services and for inspection or supervision activities according to sections 77 and 87 of the Svalbard Environmental Protection Act and the tasks of the administrative authorities and this is considered to meet the local communities' need for the use of drones and the like in protected areas. As a rule, the use of drones and similar devices for training purposes and exercises may be carried out outside the protected areas.

## 11.2 Tourism

The proposed amendments to the environmental regulations entail new provisions that limit where tourist activities can take place and impose new requirements on the tour operators. These will require changes to the existing travel schedule and tourism products that are not in accordance with the regulations. Furthermore, future development of new travel schedules and tourism products must also take place within this new framework. The proposals are not considered to prevent tourism from growing back to the volume the industry had in the years before the Covid-19 pandemic, nor are changes proposed that entail restrictions on the number of tourists that can come to Svalbard.

The proposals have the greatest consequences for the cruise industry, which will have less flexibility in implementing organised tours in the Northeast Svalbard and Southeast Svalbard Nature Reserves and the South Spitsbergen, Forlandet, Northwest Spitsbergen and Van Mijenfjorden National Parks. In the Ossian Sars Nature Reserve and the Indre Wijdefjorden National Parks, it will no longer be possible to go ashore, which, in particular, will have consequences for the current use of Ossian Sars. Less flexibility in the choice of organised tours and landing areas in the relevant protected areas will be a disadvantage for the tour operators. The regulations have been designed so that tourist activities have a sufficient number of landing areas for their activities and so that the tourists can still be offered a wide range of experiences of nature and cultural remains over large parts of Svalbard. However, in a restructuring phase, the proposals will require the cruise industry to make changes to the existing tour arrangements, to the extent that existing tour arrangements differ from the proposed regulations, which will lead to additional work. Two sites that currently require applications and are closed - Virgohamna and Habenichtbukta - are open under the proposal and thus will make visitors' access easier.

New requirements for landing, such as limits on numbers and requirements for where access and passage on land can take place after going ashore, also place greater demands on the tourist activities in these protected areas. The requirement of having a qualified guide may entail costs associated with more training, especially for those parties who do not already use them to the extent and with such expertise that is now proposed. At the same time, the proposals are not considered to place any restrictions on the level of activity or to prevent further development and growth in the industry and therefore do not weaken tourism as an economic basis for the local communities in the future.

The proposal to extend the passenger limit of 200 passengers to apply in all the protected areas is considered to have limited consequences for tourism because most cruise ships sailing in protected areas already have a number of passengers lower or only marginally higher than 200<sup>78</sup>. At the same time, the regulation will entail a disadvantage to cruise operators with large cruise ships and for the overseas cruise ships that currently use Tempelfjorden within the Sassen-Bünsow Land National Park. If the proposal is adopted, such ships must use areas that are not protected.

Overall, the proposals are considered to prevent attractions and experience values from being damaged by wear and tear and disturbances from traffic. This will also safeguard and maintain the tourism industry's basis for nature-based tourism in the long term. Regulation of where access and passage and other tourist activities in protected areas can take place is considered to be in line with the corresponding regulations both nationally on the mainland and internationally. Thus, this type of regulation is not unknown to tourists with experience from visits to protected areas in other parts of the world. The proposals will help to collect and channel the cruise traffic and limit the areas where it is possible to have a large number of tourists ashore. This in turn has positive side effects for safety and emergency preparedness in the event of accidents.

For tour operators offering snowmobile trips, the restriction on motor traffic on sea ice will mean very little compared with the temporary regulations of recent years. Crossing the sea ice in Tempelfjorden and Billefjorden for access to other areas will still be permitted. Tour operators are also allowed to use the sea ice along the shore on the north side of Van Mijenfjorden for access to the commercial cabin located here and for round trips.

Provisions on a speed limit at sea in the proximity of selected bird cliffs in the period 1 April to 31 August are considered to have minor consequences for tourism and primarily entail a requirement for adaptation by maintaining a low speed. Proposals for new regulation of access and passage to protect polar bears and walrus, require the use of a distance meter or other equipment to comply with the regulations or maintain a good safety margin to the minimum distances. Where the travel

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<sup>78</sup> Based on figures from 2019

arrangements themselves consist of experiencing wildlife up close, or this is a request from the tourists, the proposal will cause a disadvantage. The disadvantage is considered small compared with the current regulations, as close contact with wildlife may entail a breach of the duty of care in section 73, second paragraph of the Svalbard Environmental Protection Act. It will still be possible to experience walrus at haul-out sites closer than 300 metres when approaching the animals on land.

The proposed amendments to the current prohibition against seeking out polar bears and the minimum distance of 500 meters may affect the way polar bears can be experienced in tourist activities compared with today. The proposal entails a clearer ban on seeking out polar bears and imposes obligations if polar bears are encountered, thereby simplifying the guide's assessments in the field. These proposals are not considered to have a material impact on the opportunities to offer or sell different types of tour arrangements compared with the current provisions where it is prohibited to seek out polar bears so that they are disturbed.

The proposals for requirements relating to access and passage on land to safeguard the vegetation, wildlife and cultural remains are mainly specifications and a clarification of the requirements for access and passage with due care that already follow from the Svalbard Environmental Protection Act and how these can be fulfilled when travelling in the area. The provisions mean that paths must be used when these exist. This is not considered to have significant new consequences for the tourism industry beyond tightening the requirement for knowledge and due care.

The proposal for an application obligation for camping activities in connection with tourist activities entails a clarification of the current regulations. In some more cases, tourist activities require a permit than under the current regulations but this nevertheless entails a slight change compared with the current system with a duty to report. In our opinion, the proposal does not entail increased use of resources for tourist activities that currently have to apply or submit a notification of camping activities. The requirement of a vigilant polar bear watch is considered a regulation of practice and thus has no special consequences beyond creating clearer and more predictable regulations.

### **11.3 Research and monitoring**

Actors who carry out research and monitoring will have to apply for exemption for activities in more cases than according to the current regulations. The new regulations may trigger the need for permits from the Governor of Svalbard for icebreaking, the use of drones, the use of underwater vehicles, camping activities, motor traffic at sea, at walrus haul-out sites and the use of snowmobiles on sea ice. Activities related to research on and monitoring of polar bears do not trigger a new need for application as the activities are already subject to application.

According to the proposal, the Governor of Svalbard may grant an exemption for scientific studies according to the provisions of the Svalbard Environmental Protection Act, protection regulations and regulations relating to motor traffic in Svalbard. If necessary, the Governor of Svalbard may grant perennial exemptions. Many research and monitoring tasks already require an application and permit from the Governor of Svalbard. Therefore, the consequences are considered to be minor overall because the new activities for which a dispensation must be applied for can often be incorporated into applications that must be processed anyway.

The requirement for a vigilant polar bear watch during organised camping activities entails a tightening of the requirements for safety measures in respect of polar bears but is largely already implemented and therefore, is also considered to have minor consequences for the research.

Therefore, the consequences of the proposals are considered to be minor for research and monitoring in light of the above.

## **11.4 Public authorities**

Overall, the proposals are considered to lead to a slightly increased use of resources for the Governor of Svalbard. In some areas, the Governor of Svalbard will receive more applications to be processed. There is a need for more supervision and control in the field but this applies regardless of the proposed amendments. Although the tasks are mainly considered to be solvable with the current staffing, in light of the current resource needs and the growth in tourism and traffic in recent years, some increased capacity at the Governor should be considered.

Activities under the auspices of research and monitoring already require permission from the Governor of Svalbard but the proposals will mean that more activities will require application processing in line with what has been stated above in Section 11.3.

The proposals for camping activities will mean that the Governor of Svalbard will receive more applications for processing than before. However, for several of the cases, the current arrangement with a duty to notify and the application requirement according to section 57, letters c) and g) of the Svalbard Environmental Protection Act also currently requires some processing capacity. In total, the transition from a duty to notify to an application obligation is not considered to require significantly increased resources, although it will be necessary to grant permits in more cases than before.

The regulation of drones may lead to an increased number of applications beyond research and monitoring.



The proposals otherwise make little provision for measures and activities to take place upon application. Therefore, there are not expected to be many new applications in other areas than those mentioned above.

The proposed regulation of icebreaking will result in fewer applications than today in that direct exemptions will be granted for the most practical and important needs for icebreaking. The proposed new regulation of Virgohamna will involve a saving in that the Governor of Svalbard will have resources freed up and have previously been used to process applications for landing in this area. The proposed ban on motor traffic on sea ice results in savings in administrative costs that the temporary regulations have required in recent years.

Clearer rules provide greater clarity and more predictability for the public and in the long term are considered to be able to lead to fewer inquiries to the Governor of Svalbard with questions about the interpretation of the regulations.

The Governor of Svalbard will have some increased administrative costs for information control and enforcement of the new regulations. Good information about new regulations for all concerned is important for compliance with the regulations in practice. However, the proposals do not entail increased costs for information etc., beyond what is normal in the regulatory work and will be greatest in a period where the regulations are still new.

Regulations must be followed up with adequate supervision and control. There is little capacity in the field today and increased capacity should be considered. Supervision and control of new regulations will mainly take place together with supervision and control of the other regulations in connection with the Governor of Svalbard's activity in the field.

The proposals have very few consequences for other environmental authorities for Svalbard. The Norwegian Environment Agency may receive complaints for consideration related to the new regulations proposed. Only a small proportion of the Governor of Svalbard's decisions are appealed to the Norwegian Environment Agency and the amended regulations are not expected to result in significantly increased administrative costs for the Norwegian Environment Agency.

## **11.5 Overall assessment**

An overall assessment of the consequences of the proposals has been made in light of the objectives of the Norwegian Svalbard policy. In this context, the objective to preserve Svalbard's distinctive wilderness is key but also other objectives are important to look at. The Svalbard policy assumes that environmental considerations will weigh the heaviest in the event of a conflict with other considerations.

The purpose of the proposed amendments to the environmental regulations is to limit the strain on the environment from access and passage to meet the environmental objectives. This has been

attempted to be done through targeted measures to limit the disturbance to wildlife and wear and tear on the terrain and cultural remains. At the same time, emphasis has been placed on ensuring that the sum of the measures does not prevent tourism from growing back to the volume it had in the last years before the Covid-19 pandemic, nor weaken tourism as a basis for the community in Longyearbyen. The proposals do not impose restrictions on the number of tourists that may come to Svalbard in the future. When formulating the proposals, considerable emphasis has been placed on following up the priorities in the latest Svalbard white paper that tourism may develop in the Isfjorden area. Emphasis has also been placed on limiting the negative consequences for permanent residents' opportunities for recreation, access and passage. The tourism industry and permanent residents must have access to experience Svalbard's natural and cultural heritage.

In our opinion the proposals will reduce the overall burden on the natural and cultural environment in Svalbard and lead to better protection of wilderness areas. At the same time, the proposals will entail some disadvantages for tourist activities in the form of less flexibility in terms of which areas can be used and generally tighten the requirements for access and passage to protect vulnerable wildlife, among other things.

Although there has been no basis for quantifying the effects of the proposals, assessments have been made of the environmental effects, administrative costs and indirect and direct costs for various actors. The proposed amendments have been formulated to cause as few as possible negative consequences for affected parties while providing the natural and cultural heritage with the necessary protection. The proposals are considered not to preclude continuing the kinds of tourist activities that take place today and do not place limitations on the volume, but there will be a need for adaptation of activities in line with the new regulations and not all activities will be able to be continued everywhere. However, the proposals will not reduce the importance of the tourism industry as an economic basis for the local communities in Svalbard. The consequences of the proposals for access and passage by permanent residents and research and monitoring are considered to be minor compared with the current regulations. Overall, we consider the disadvantages of the regulations to be less than the advantages achieved by reducing the accumulative burden on the natural environment.

## **12. Prerequisites for a successful implementation**

Good information and guidance on the regulations and access and passage with due care are important for supporting the proposed amendments. Guidelines from the Governor of Svalbard that specify this may be an important contribution to ensuring compliance with the provisions on access and passage with due care.

To monitor whether the new regulations provide sufficient protection of natural and cultural values, the state of the natural environment must be monitored. The Norwegian Polar Institute has already been commissioned, which includes mapping of the vegetation at landing sites and monitoring the cumulative traffic load. The results from this monitoring will be important in assessing whether the amendments are sufficient for the environmental objectives for Svalbard to be achieved.

## Annexes

1. Act relating to amendments to Act no. 79 of 15 June 2001 on Protection of the Environment in Svalbard (The Svalbard Environmental Protection Act)
2. Regulations relating to amendments to Regulation no. 723 of 24 June 2002 relating to motor traffic in Svalbard with annexes
3. Regulation no. 731 of 27 June 2002 relating to camping activities in Svalbard
4. Regulation relating to amendments to Regulation no. 377 of 4 April 2014 relating to South Spitsbergen, Forlandet and Northwest Spitsbergen National Parks, Northeast Svalbard and Southeast Svalbard Nature Reserves, and bird reserves in Svalbard with annexes
5. Regulations relating to amendments to Regulation no. 1046 of 9 September 2005 relating to the conservation of Indre Wijdefjorden National Park in Svalbard, Regulation no. 1189 of 26 September 2003 on conservation of Sassen-Bünsow Land National Park in Svalbard, Regulation no. 1187 of 26 September 2003 on conservation of Nordre Isfjorden National Park, Regulation no. of 18 June 2021 on Van Mijenfjorden National Park in Svalbard, Regulation no. 1188 of 26 September 2003 on conservation of Ossian Sars Nature Reserve, Regulation no. 903 of 16 August 2002 on conservation of Bjørnøya Nature Reserve in Svalbard, Regulation no. 1185 of 26 September 2003 on conservation of Hopen Nature Reserve in Svalbard, Regulation no. 1190 of 26 September 2003 on conservation of Festningen Geotope Protected Area in Svalbard and Regulation no. 1029 of 3 June 1983 on the conservation of the Moffen Nature Reserve in Svalbard with annexes
6. Regulation relating to amendments to Regulation no. 526 of 3 May 2000 on area protection and access to Virgohamna in Svalbard
7. Input from local working groups to the regulatory work relating to Svalbard
8. List of proposed landing sites