Department of Conservation
Te Papa Atawhai

Memo: Further advice on Hākaimangō-Matiatia Marine Reserve

To	Minister of Conservation	**Date submitted**	24 March 2025
Reference	25-B-0113	**DocCM**	DOC-10216427
Security Level	**In Confidence**		
From	Ruth Isaac, Deputy Director-General Policy and Regulatory Services: s9(2)(a)		
Subject	Opportunity to include the proposed Hākaimangō-Matiatia Marine Reserve as a High Protection Area and decision steps, including concurrence, under the Marine Reserves Act 1971.		

Purpose – Te aronga

1. To provide further advice and relevant context following your meeting with DOC officials on 12 March 2025.
2. At the meeting, you enquired about the possibility of adding the proposed Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve (the proposed marine reserve) to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) as a High Protection Area (HPAs) after the Bill is passed.

Your previous relevant decisions

3. You previously agreed that the proposed marine reserve would not be included in the Bill as it progresses through parliament [24-B-0105 refers]. This was to allow for the necessary analysis of the proposal to be completed under the Marine Reserves Act 1971, and because of the impact on timeframes for the Bill.
4. You also previously agreed that the Bill would not include a way to add new HPAs [24-B-0106 refers]. This was because the protected areas in the Bill were identified through a lengthy, stakeholder-led process, and the Bill was not meant to a be a means for establishing additional protected areas.

Decision on the proposed marine reserve (Legally privileged advice – paragraphs 5 and 6)

5. s9(2)(h) [redacted]
6. s9(2)(h) [redacted]

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The proposed marine reserve as a High Protection Area

7. Your decisions on the Application must be made under the Marine Reserves Act tests. If the reserve is not established, the proposed protection area could be added to the enacted Hauraki Gulf / Tīkapa Moana Marine Protection Act as a HPA through an amendment bill.

8. Progressing an amendment bill will require the amendment bill to be on the legislative programme. Amendment bills typically take at least 18 months to complete. The process would involve public consultation on the proposal and a select committee process. This is regardless of the public consultation that has been undertaken under the Marine Reserves Act as they are separate processes.

9. Alternatively, the Government may wish to consider progressing the proposed protection area at Waiheke under future legislation resulting from marine protected area reform. As marine protected area reform is not intended in this term of Government, this option won't be available for several years.

Additional information on concurrence decisions under the Marine Reserves Act

10. For a marine reserve to be declared under the Marine Reserves Act, you need concurrence (agreement) from the Minister for Oceans and Fisheries, and the Minister of Transport. If they agree, you can recommend to the Governor-General the making of an Order in Council, with or without conditions.

11. Note that concurrences are only sought if you first "approve" the marine reserve application. In other words, the concurrences are only sought if you:

    - do not uphold any objections under 5(6), and
    - consider the marine reserve meets the 5(9) tests (for example, the marine reserve is considered to be for the benefit of the public).

12. The Marine Reserves Act requires the concurrence Ministers to make their decisions independently. Their agencies provide advice to help them make this decision.

13. The Southeast Marine Protection decision is our most recent example of a concurrence process under the Marine Reserves Act. Concurrence Ministers were advised by their respective agencies to consider the following when making their decisions:

    - assessing the proposed marine reserve under sections 5(6) and 5(9) of the Marine Reserves Act (both Ministers);
    - making decisions in accordance with Crown obligations in relation to the principles of the Treaty of Waitangi, including relevant Treaty Settlement legislation and the Marine and Coastal Area (Takutai Moana) Act 2011 (both Ministers);
    - taking into account the statutory obligations of the Minister under the Fisheries Act 1996 (Minister for Oceans and Fisheries) and section 5A of the Maritime Transport Act 1994 (Minister of Transport); and
    - acting in a manner consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (Minister for Oceans and Fisheries).

Next steps – Ngā tāwhaitanga

14. We recommend you review 24-B-0566 - Briefing - Decision on the Hâkaimangô-Matiatia marine reserve application and associated DOC advice.

ENDS

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