



# Cabinet Legislation Committee

## Minute of Decision

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### Hauraki Gulf Tīkapa Moana Marine Protection Bill: Approval for Introduction

**Portfolio** Conservation / Oceans and Fisheries

On 17 August 2023, the Cabinet Legislation Committee:

- 1 **noted** that the purpose of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill 2023 (the Bill) is to establish new marine protection areas to protect and enhance the ecological integrity and biodiversity of the Hauraki Gulf / Tīkapa Moana, while acknowledging the rights and interests of Māori;
- 2 **noted** that the Bill holds a category 4 priority on the 2023 Legislation Programme (to be referred to a select committee in 2023);
- 3 **noted** that the establishment of marine reserves under the Bill may impact on protected customary rights and customary marine title under the Marine and Coastal Area (Takutai Moana) Area Act 2011;
- 4 **noted** that the process for establishing marine reserves under the Bill is not subject to the requirements outlined in the Takutai Moana Act 2011, e.g., adequate consultation with whānau, hapū, and iwi and that decision-makers have particular regard to these views;
- 5 **noted** that it is considered the process undertaken in developing the Bill's marine protection proposal would nonetheless satisfy the requirements under the Takutai Moana Act 2011;
- 6 **agreed** that the Bill bind the Crown;
- 7 **agreed** that the Bill create regulation-making powers as set out in paragraph 52 of the paper under LEG-23-SUB-0151;

**Additional policy decisions**

- 8 **agreed** that the Bill include an offences and penalties system that includes:
- 8.1 strict liability infringement offences covering all activities, with a maximum fee of \$1,000 and a maximum fine of \$2,000 and no imprisonment;
  - 8.2 strict liability criminal offences covering non-commercial activities, with a maximum fine of \$100,000 and no imprisonment, but an ability to impose community-based sentences;
  - 8.3 strict liability criminal offences covering commercial activities, with a maximum fine of \$200,000 and no imprisonment, but an ability to impose community-based sentences;
  - 8.4 *mens rea* criminal offences covering all activities, with a maximum fine of \$250,000 and maximum 3-month imprisonment term;
  - 8.5 *mens rea* criminal offences covering 'other offences', with a maximum fine of \$100,000 and maximum 3-month imprisonment term;
  - 8.6 a body corporate liability clause modelled on existing conservation legislation;
- 9 **agreed** that the Bill include provisions for the power of rangers modelled on the Marine Reserves Act 1971;
- 10 **agreed** that the Bill include provisions for Court ordered forfeiture for all offences;
- 11 **agreed** that the Bill include a permitting regime whereby the Director-General of the Department of Conservation can grant permits for otherwise prohibited activities;
- 12 **agreed** that the Bill will specify the matters the Director-General of the Department of Conservation must consider when deciding on a permit application;
- 13 **agreed** that the Bill will include a 25-year review of the HPAs and SPAs;
- 14 **agreed** that the Bill will include the following Treaty provision: This Act must be interpreted and administered as to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi;
- 15 **noted** that minor and technical policy changes have been made, consistent with the intent set out in the 2022 Cabinet paper;

**Approval for introduction**

- 16 **approved** the Hauraki Gulf / Tīkapa Moana Marine Protection Bill [PCO 23438] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 17 **agreed** that the Bill be introduced on 17 August 2023;

18 **agreed** that the Bill should be:

18.1 referred to the Environment Committee for consideration;

18.2 enacted by mid-2024 at the latest, subject to parliamentary processes and the government's legislative priorities;

### **Approval to issue drafting instructions to PCO for regulations under this Bill**

19 **authorised** the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office for secondary legislation outlining the infringement offences, fees, notice, and notice reminders under the Hauraki Gulf / Tīkapa Moana Marine Protection Act 2024.

Rebecca Davies  
Committee Secretary

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**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Ayesha Verrall  
Hon Damien O'Connor  
Hon Andrew Little  
Hon Kieran McAnulty  
Hon Ginny Andersen  
Hon Willow-Jean Prime  
Hon Dr Duncan Webb  
Hon Rachel Brooking  
Hon Jo Luxton  
Tangi Utikere, MP (Chief Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG