



# Memo: Hauraki Gulf / Tīkapa Moana Marine Protection Bill – Committee of the Whole House and launch event

<b>To</b>	Minister of Conservation	<b>Date submitted</b>	9 April 2025
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<b>Security Level</b>	<b>In Confidence</b>		
<b>From</b>	Siân Roguski, Director Policy (Biodiversity, International and Funding): <b>9(2)(a)</b>		
<b>Subject</b>	Information to support you during the Committee of the whole House consideration of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill and supporting communications material.		
<b>Attachments</b>	Attachment A – Clause-by-clause analysis Attachment B – Committee of the Whole House supporting material Attachment C – Draft press release Attachment D – Notes for a third reading speech		

## Purpose – Te aronga

- To provide you with:
  - information to support you when the Committee of the Whole House (CoWH) considers the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill); and
  - a draft press release for once the Bill is enacted.

## Background and context – Te horopaki

### *Parliamentary progress of the Bill*

- On 3 April 2025, you lodged a Cabinet paper seeking authorisation to submit two Amendment Papers to the Clerk for consideration at the CoWH.
- Under current timeframes, the Bill is expected to be considered by the CoWH 6-8 May. The CoWH stage is the last opportunity for any changes to be made to the Bill before its third reading.
- At the CoWH stage, your two Amendment Papers will be considered and voted on, alongside any Amendment Papers submitted by other Members.

## Your role at Committee of the whole House

- During the CoWH stage, you will sit at the table at the front of the House, together with the Chairperson (the assistant or deputy Speaker).

6. Ministers are not required to make an opening speech during the CoWH stage (although you are able to do so if you would like). Members will take calls which may include questions about the Bill (such as the effect or intent of a clause) which you will be expected to address. It is normal practice for Ministers to seek advice or clarification from officials while the CoWH stage is occurring. DOC and Parliamentary Counsel Office officials will be on hand to assist you as needed.
7. The Bill will likely be considered Part-by-Part, with Part 1 (preliminary clauses) considered last, as this is the default process under Standing Orders (although the committee has the option to decide to consider the Bill on a clause-by-clause basis, by themes, or as a single question). You can move that the Bill be considered in any of these ways, if you prefer.
8. A Part-by-Part format would break the debate into:
  - Part Two: Marine reserves, seafloor protection areas, and high protection areas. This Part includes, for example, purposes of these protection areas, and activities that are prohibited in them. This Part includes the provision that authorises ring net fishing in two high protection areas and empowers the Director-General of Conservation to authorise specific persons in writing to undertake ring net fishing. Schedules 1-5 will be debated at this time but voted on later. The schedules include transitional, savings, and related provisions (schedule 1), maps of the protection areas (schedules 2-4), and consequential amendments (schedule 5);
  - Part Three: Permits, enforcement, and regulations for protected areas. This section includes the provision for making of regulations for ring net fishing as well as the three-year review of the ring net fishing provision;
  - Schedules 1-5: Voted on at this stage having been debated alongside the relevant Part of the Bill e.g. schedules 2-4 are maps of the boundary areas and are debated along with Part two of the Bill; and
  - Part One: Preliminary provisions. This Part includes, for example, purpose, Tiriti o Waitangi, and meaning and purpose of biodiversity objectives.
9. Members can make an unlimited number of calls of up to 5 minutes long. However, when the debate becomes repetitive or no longer relevant, the Chair will move the debate to the next Part.

#### *Amendments*

10. Members may propose amendments to the Bill. If these amendments have been given to the Clerk in advance they are printed as Amendment Papers, but this is not essential. New amendments can be proposed during the CoWH stage. Members will vote on all proposed amendments (including your two amendment papers) at the end of the debate on each Part of the Bill.
11. As the member in charge of the Bill, you have the right to have all the amendments that you are proposing to a particular Part of the Bill considered as one question and this is, by far, the most common approach.
12. When all the provisions of the Bill have been considered, the Chair will inform the committee that the Bill will be reported to the House.

#### *Preparation*

13. For the CoWH stage, we have provided you with:
  - a clause-by-clause analysis of the Bill (Attachment A); and
  - supporting material for the committee stage outlining the proposed amendments and answers to questions that may be asked (Attachment B).

14. Officials are available to assist with a preparation session for you to practice the CoWH format if you wish.
15. If there is other supporting material you would find useful, or you would like the supporting information in a different format, we can provide this at your office's request.

### **Third Reading of the Bill**

16. The Bill's third reading can follow on very shortly after the committee stage and is expected to be completed in the same week as the CoWH process. This is the final stage of the legislative process for the House.
17. We have provided speech notes for a third reading speech (Attachment D) for your consideration

### **Launch event following enactment of the Bill**

18. On 2 April 2025, you received a status item report seeking your feedback on options for a launch event following enactment of the Bill. You indicated there are some further conversations to be had, including with the Prime Minister, before confirming a preferred launch event location.
19. Officials will begin planning for the launch event. We will provide you with further advice on this plan closer to the time and following confirmation of the preferred launch event option.
20. To support you with communications around enactment of the Bill, we have provided you with a draft press release (Attachment C). Following finalisation, we will translate the press release to Te Reo Māori.

### **Next steps – Ngā tāwhaitanga**

21. We will work with your office to schedule a preparation session, if you would like to do this and your schedule allows.
22. Further advice on a launch event will be provided to you closer to the time.

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**ENDS**

## **Attachment A: Clause-by-clause analysis**

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## Clause by clause analysis of the Hauraki Gulf / Tīkapa Moana

Clause	Description
<p><b>1. Title</b></p> <p>This Act is the Hauraki Gulf / Tīkapa Moana Marine Protection Act 2023.</p>	<p>This is the title clause.</p> <p><b>Q+A</b>  <i>Why doesn't the title of the Bill include "Te Moananui-o-Toi"?</i>                      The official (gazetted) name for the area is the 'Hauraki Gulf / Tīkapa Moana'. This is a Treaty settlement name from Ngā Mana Whenua o Tāmaki Makaurau Collective.</p>
<p><b>2. Commencement</b></p> <p>This Act comes into force on the day after Royal assent.</p>	<p>This clause states that the Act will come into force on the day after Royal assent.</p>

## Part 1 Preliminary provisions cl3-9

Clause	Description
<p><b>3. Purpose of this Act</b></p> <p>The purpose of this Act is to contribute to the restoration of the health and mauri of the Hauraki Gulf / Tīkapa Moana by—</p> <p>(a) establishing new marine reserves, seafloor protection areas, and high protection areas within the Hauraki Gulf / Tīkapa Moana; and</p>	<p>This clause sets out the purpose of the Act. Seafloor protection areas and high protection areas have their own purposes, which are outlined in clauses 12 and 16.</p> <p><b>Q+A</b>  <i>Why does the acknowledgement of customary rights only apply to seafloor protection areas and high protection areas i.e. not marine reserves?</i>                      Marine reserves are established to be managed under the Marine Reserves Act 1971 therefore provisions in this Bill, including those that acknowledge customary rights, do not apply to these areas.</p>

Clause	Description
<p>(b) acknowledging customary rights within seafloor protection areas and high protection areas.</p>	<p><i><u>Why does the Bill establish marine reserves if they do not acknowledge customary rights the way seafloor protection areas and high protection areas do?</u></i></p> <p><i>The two marine reserves established under this Bill are, in effect, extensions of existing marine reserves. The Cape Rodney / Okakari Point (Goat Island/Leigh) Marine Reserve and Te Whanganui-o-Hei / Cathedral Cove Marine Reserve.</i></p> <p><i>Practically it makes sense for extensions of these existing areas to be the same protection tool.</i></p>
<p><b>4. Tiriti o Waitangi/Treaty of Waitangi</b></p> <p>(1) This Act must be interpreted and administered so as to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi.</p> <p>(2) <a href="#"><u>Without limiting the generality of subsection (1), in order to provide for the Crown’s intention to give effect to the principles of te Tiriti o Waitangi/the Treaty of Waitangi,—</u></a></p> <p>(a) <a href="#"><u>section 8(2) provides that nothing in this Act (except subpart 1 of Part 2) limits or otherwise affects the ability of an applicant group to obtain recognition of protected customary rights or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011:</u></a></p> <p>(b) <a href="#"><u>section 8A(1) provides that any person performing or exercising</u></a></p>	<p>This clause reflects the Treaty clause in the Conservation Act 1987 and has been modernised to include ‘te Tiriti o Waitangi’. That allows for the suite of case law and interpretation of the Treaty of Waitangi clause in the Conservation Act to be applied to this Bill.</p> <p><b>AP changes - substantive</b></p> <p>This amendment provides further clarity as to how the Bill gives effect to the principles of te Tiriti o Waitangi by referencing the relevant sections in the Bill. This further clarity does not limit the generality of clause 4(1).</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Description
<p><u>functions, duties, or powers under this Act must act in a manner that is consistent with obligations arising under existing Treaty settlements:</u></p> <p>(c) <u>section 19(1) provides for customary fishing within high protection areas:</u></p> <p>(d) <u>section 21(aaa) provides that the prohibitions in sections 14, 15, and 18 do not apply to the exercise of protected customary rights or rights held by a customary marine title group under the Marine and Coastal Area (Takutai Moana) Act 2011:</u></p> <p>(e) <u>section 25(1)(b) provides that, if the New Zealand Geographic Board determines to alter an official geographic name established by this Act, and that name is a Māori name, the Board must consult with iwi that exercise kaitiakitanga in the relevant area:</u></p> <p>(f) <u>in relation to an application made under section 27 for a permit to undertake a prohibited activity within a seafloor protection area or</u></p>	

Clause	Description
<p><u>a high protection area,—</u></p> <p>(i) <u>section 29 provides that the Director-General must consider the anticipated effects of the activity on the rights and interests of iwi that exercise kaitiakitanga in the relevant area when considering the application:</u></p> <p>(ii) <u>section 30(1) provides that the Director-General may grant a permit if satisfied that the applicant will take reasonable steps to avoid, remedy, or mitigate any adverse effects of the activity on the rights and interests of iwi that exercise kaitiakitanga in the protected area:</u></p> <p>(iii) <u>section 30(3) provides that the Director-General must notify their decision on a permit, and the reasons for it, to iwi that exercise kaitiakitanga in the protected area and that have engaged with the application:</u></p> <p>(iv) <u>section 30A provides for additional requirements that</u></p>	

Clause	Description
<p><u>apply if any of sections 55, 62A, 66, and 71 of the Marine and Coastal Area (Takutai Moana) Act 2011 apply to the activity:</u></p> <p>(g) <u>section 32 provides that the Director-General may revoke a permit, or amend any condition of the permit, if the Director-General considers that the activity to which the permit relates is inconsistent with the rights and interests of iwi that exercise kaitiakitanga in the relevant area in a manner not anticipated at the time the permit was granted:</u></p> <p>(h) <u>section 66 provides that, before making a recommendation to the Governor-General to make regulations for biodiversity objectives and associated restrictions, the Minister must be satisfied that the proposals for regulations were developed in consultation with iwi that exercise kaitiakitanga in the relevant area:</u></p> <p>(i) <u>section 68 provides that, when undertaking a Ministerial review of the operation, effectiveness, and</u></p>	

Clause	Description
<p><a href="#">management of seafloor protection areas and high protection areas, the Ministers responsible for the review must ensure that there is a reasonable opportunity for interested persons, including iwi that exercise kaitiakitanga in any area subject to the review, to make submissions.</a></p>	
<p><b>5. Interpretation</b></p>	
<p><b>aircraft</b> has the same meaning as in section 5 of the Civil Aviation Act 2023</p>	<p><i><b>aircraft</b> means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.</i></p> <p>This includes all airplanes, helicopters and drones.</p>
<p><b>aquaculture activity</b> means any activity carried out for the purpose of breeding, hatching, cultivating, rearing, or on-growing fish, aquatic life, or seaweed for harvest</p>	<p>This definition is broader than the definition in the Resource Management Act 1991 (RMA), which the Fisheries Act 1996 refers to.</p> <p>The RMA definition excludes aquaculture activities that require a resource consent and is therefore too permissive for the purpose of this Bill.</p>
<p><b>aquatic life</b> has the same meaning as in section 2(1) of the Fisheries Act 1996</p>	<p><i><b>aquatic life</b>—</i></p> <p><i>(a) means any species of plant or animal life that, at any stage in its life history, must inhabit water, whether living or dead; and</i></p> <p><i>(b) includes seabirds (whether or not in the aquatic environment).</i></p>
<p><b>biodiversity objectives</b> has the meaning given in 5A</p>	<p><b>5A Meaning and purpose of biodiversity objectives</b></p>

Clause	Description
	<p><i>(1) In this Act, biodiversity objectives means the biodiversity objectives for sea- floor protection areas and high protection areas established by regulations made under section 66(1)(a).</i></p> <p><i>(2) The purpose of biodiversity objectives is to set objectives for seafloor protection areas and high protection areas that are—</i></p> <p><i>(a) appropriate to the characteristics of the particular area; and</i></p> <p><i>(b) consistent with the purposes of seafloor protection areas and high protection areas (see sections 12 and 16).</i></p>
<p><b>bottom longlining—</b></p> <p><b>(b)</b> means the use of a line—</p> <p>i. to which 7 or more hooks (whether baited or not) are attached; and</p> <p>ii. that is sunk using weights; but</p> <p><b>(c)</b> does not include the use of a handline</p>	<p>This definition is modified from the definition used in the Fisheries (Electronic Monitoring on Vessels) Regulations 2017, which excludes droplines and dahn lines from the definition. For the purposes of this Bill, droplines and dahn lines should be included in the definition.</p>
<p><a href="#">commercial fishers</a> has the same meaning as in section <a href="#">2(1) of the Fisheries Act 1996</a></p>	<p><b>commercial fisher—</b></p> <p><i>(a) means a person who holds a fishing permit issued under section 91; and</i></p> <p><i>(b) for the purposes of sections 72 and 75, includes—</i></p> <p><i>(i) a person who holds a high seas fishing permit; and</i></p> <p><i>(ii) a person using a New Zealand ship who, in the judgment of the chief executive, holds a valid authority from a foreign country to take highly migratory species in the national fisheries jurisdiction of that foreign country</i></p> <p><b>AP changes – technical / minor</b></p> <p>Definition has been added due to inclusion of the term in the Bill.</p>
<p><b>customary fishing</b> means fishing carried out in accordance with—</p>	<p>Regulations under sections 186 and 297 of the Fisheries Act are the Fisheries (Kaimoana Customary Fishing) Regulations 1998.</p>

Clause	Description
<p>(a) regulations made under section 186 of the Fisheries Act 1996; or</p> <p>(b) regulations made under section 297 of the Fisheries Act 1996 for the purpose of section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;</p>	<p>Regulations under section 297 of the Fisheries Act are the Fisheries (Amateur Fishing) Regulations 2013.</p> <p>Both regulations provide for customary non-commercial fishing.</p>
<p><b>customary marine title</b> has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011</p>	<p><b>customary marine title</b> means the customary interests—</p> <p>(a) established by an applicant group; and</p> <p>(b) recognised by—</p> <p style="padding-left: 40px;">(i) a customary marine title order; or</p> <p style="padding-left: 40px;">(ii) an agreement</p>
<p><b>Danish seine net</b> means a net or part of a net (including a warp, rope, chain, material, or device used in conjunction with, or attached to, the net) that—</p> <p>(a) has a buoyancy system on the top edge; and</p> <p>(b) is weighted on the bottom edge; and</p> <p>(c) is operated without the use of a horizontal net-opening device by surrounding fish and being drawn over the seabed, or through waters, to 1 or more vessels</p>	<p>The definition is from the Fisheries (Commercial Fishing) Regulations 2001.</p>
<p><b>Danish seining</b> means use of a Danish seine net</p>	
<p><u><a href="#">department</a></u> means the department of State that, with the authority of the Prime Minister, is responsible for the administration of this Act</p>	<p><b>AP changes – technical / minor</b></p> <p>Definition added for clarity.</p>

Clause	Description
<b>Director-General</b> means the Director-General of the <del>Department</del> <a href="#">department</a>	<b>AP changes – technical / minor</b> Grammatical fix.
<b>dredge</b> — (a) means a device towed on or over, or capable of being towed on or over, the seabed; and (b) includes a box dredge or ring device	The definition is modified from the Fisheries (Commercial Fishing) Regulations 2001 which specifically references shellfish. For the purposes of this Bill, reference to shellfish was removed to give the term a broader meaning.
<b>dredging</b> means use of a dredge	
<b>exploration</b> has the same meaning as in section 2(1) of the Crown Minerals Act 1991	<i><b>exploration</b> means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and to explore has a corresponding meaning</i>
<b>fish</b> has the same meaning as in section 2(1) of the Fisheries Act 1996	<i><b>fish</b> includes all species of finfish and shellfish, at any stage of their life history, whether living or dead</i>  <i>‘Finfish’ is defined as: <b>finfish</b> includes all species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, at any stage of their life history, whether living or dead</i>  <i>‘Shellfish’ is defined as: <b>shellfish</b> includes all species of the phylum Echinodermata and phylum Mollusca and all species of the class Crustacea at any stage of their life history, whether living or dead</i>
<b>fishing</b> has the same meaning as in section 2(1) of the Fisheries Act 1996	<i><b>fishing</b>—            (a) means the catching, taking, or harvesting of fish, aquatic life, or seaweed; and            (b) includes—            (i) any activity that may reasonably be expected to result in the catching, taking, or</i>

Clause	Description
	<i>harvesting of fish, aquatic life, or seaweed; and (ii) any operation in support of or in preparation for any activities described in this definition</i>
<u>grey mullet means a fish of the species <i>Muqil cephalus</i></u>	<b>AP changes – technical / minor</b> Definition has been added due to the inclusion of the term in the Bill.
<p><b>Hauraki Gulf / Tikapa Moana—</b></p> <p>(a) means the coastal marine area on the east coast of—</p> <p>(i) the Auckland Region, as constituted by the Local Government (Auckland Region) Reorganisation Order 1989, <i>Gazette</i> Vol III 1989, p 2247; and</p> <p>(ii) the Waikato Region, as constituted by the Local Government (Waikato Region) Reorganisation Order 1989, <i>Gazette</i> Vol III 1989, p 2460; and</p> <p>(b) includes estuaries and the tidal parts of rivers and creeks on the east coast of the Auckland Region and the east coast of the Waikato Region</p>	This definition is from the Hauraki Gulf Marine Park Act 2000.
<b>high protection area</b> means an area declared to be a high protection area under section 17	
<del>individual transferable quota has the same meaning as in section 2(1) of the Fisheries Act 1996</del>	<b>AP changes – technical / minor</b> Definition has been removed due to removal of the term from the Bill.
<b>infringement fee</b> , in relation to an infringement	

Clause	Description
offence, means the infringement fee for the offence specified in the regulations	
<b>infringement offence</b> means an offence identified in this Act or the regulations as being an infringement offence	
<u><a href="#">kahawai</a> means a fish of the species <i>Arripis trutta</i></u>	<b>AP changes – technical / minor</b> Definition has been added due to inclusion of the term in the Bill.
<b>London Convention</b> means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972)	
<b>marine reserve</b> means an area declared to be a marine reserve under section 10	
<b>mining</b> has the same meaning as in section 2(1) of the Crown Minerals Act 1991	<b>mining—</b> <i>(a) means to take, win, or extract, by whatever means,—</i> <i>(i) a mineral existing in its natural state in land; or</i> <i>(ii) a chemical substance from a mineral existing in its natural state in land; and</i> <i>(b) includes—</i> <i>(i) the injection of petroleum into an underground gas storage facility; and</i> <i>(ii) the extraction of petroleum from an underground gas storage facility; but</i> <i>(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a)</i>
<b>mining activity</b> means mining, exploration, or prospecting	The definition of each of these terms is found in the Crown Minerals Act 1991.

Clause	Description
<p><u>Minister</u> means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act</p>	<p><b>AP changes – technical / minor</b> Definition added for clarity.</p>
<p><b>permit</b> means a permit granted under section 30 authorising a person to undertake a prohibited activity within a seafloor protection area or high protection area</p>	
<p><b>permit holder</b>, in relation to a permit, means the person who has been granted a permit under section 30 or to whom a permit has been transferred under section 34</p>	
<p><b>potting</b>—</p> <p>(a) means the use of any pot, whether baited or not, that is capable of catching fish or aquatic life; and</p> <p>(b) includes the use of any other device capable of catching, holding, or storing rock lobsters</p>	<p>This definition comes from the Fisheries (Amateur Fishing) Regulations 2013:</p> <p><b>potting</b>—</p> <p><i>(a) means the use of any pot, whether baited or not, that is capable of catching rock lobsters; and</i></p> <p><i>(b) includes any other device capable of catching, holding, or storing rock lobsters</i></p> <p>The text “that is capable of catching rock lobsters” in (a) was replaced with “that is capable of catching fish or aquatic life” to be clear that potting does not only refer to rock lobster potting.</p>
<p><b>prospecting</b> has the same meaning as in section 2(1) of the Crown Minerals Act 1991</p>	<p><b>prospecting</b>—</p> <p><i>(a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and</i></p> <p><i>(b) includes the following activities:</i></p> <p><i>(i) geological, geochemical, and geophysical surveying;</i></p> <p><i>(ii) aerial surveying;</i></p> <p><i>(iii) taking samples by hand or hand held methods:</i></p>

Clause	Description
	<i>(iv) taking small samples offshore by low-impact mechanical methods</i>
<p><b>protected customary right</b> has the same meaning as in section 9(1) of the Marine and Coastal Area (Takutai Moana) Act 2011</p>	<p><b>A protected customary right</b> is a right that—</p> <p>(a) has been exercised since 1840; and</p> <p>(b) continues to be exercised in a particular part of the common marine and coastal area in accordance with tikanga by the applicant group, whether it continues to be exercised in exactly the same or a similar way, or evolves over time; and</p> <p>(c) is not extinguished as a matter of law.</p>
<p><b>purse seine net or lampara net</b> means a net that is <u>operated from a vessel to encircle fish and that is drawn together at the bottom to enclose the fish</u></p>	<p><b>AP changes – technical / minor</b></p> <p>Definition has been added due to inclusion of the term in the Bill.</p>
<p><b>ranger</b> means a ranger appointed or treated as if they were appointed under section 35 or 36</p>	
<p><b>regulations</b> means regulations made under any of sections 65 to 67</p>	
<p><b>ring net—</b></p> <p>(a) <u>means a net that—</u></p> <p>(i) <u>is operated from a vessel in the following manner:</u></p> <p>A. <u>a net is laid to surround (whether fully or partially) a school of fish; and</u></p> <p>B. <u>once the fish are surrounded, a vessel or some other means is used to scare the fish into the</u></p>	<p><b>AP changes – technical / minor</b></p> <p>Definition is from the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 and has been added due to inclusion of the term in the Bill.</p>

Clause	Description
<p style="text-align: center;"><u>net; and</u></p> <p>(ii) <u>has a buoyancy system on the top edge and is weighted on the bottom edge</u></p> <p>(b) <u>does not include—</u></p> <p>(i) <u>a Danish seine net;</u></p> <p>(ii) <u>a purse seine net or lampara net;</u></p> <p>(iii) <u>a trawl net</u></p>	
<p><b>ring net fishing</b> means use of a ring net</p>	<p><b>AP changes – technical / minor</b> Definition has been added due to inclusion of the term in the Bill.</p>
<p><b>sand extraction</b> means the taking or extraction of sand from the seabed or subsoil</p>	
<p><b>seafloor protection area</b> means an area declared to be a seafloor protection area under section 13</p>	
<p><b>seaweed</b> has the same meaning as in section 2(1) of the Fisheries Act 1996</p>	<p><i><b>seaweed</b> includes all kinds of algae and sea-grasses that grow in New Zealand fisheries waters at any stage of their life history, whether living or dead</i></p>
<p><b>set net—</b></p> <p>(a) includes a gill net, ring net, or other sort of net that acts by enmeshing, entrapping, or entangling fish; but</p> <p>(b) does not include a fyke net or hīnaki</p>	<p>This definition comes from the Fisheries (Commercial Fishing) Regulations 2011.</p>
<p><b>set netting</b> means use of a set net</p>	

Clause	Description
<p><b>ship</b> has the same meaning as in section 2(1) of the Maritime Transport Act 1994</p>	<p><i><b>ship</b> means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—</i></p> <p><i>(a) a barge, lighter, or other like vessel:</i></p> <p><i>(b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates:</i></p> <p><i>(c) a submarine or other submersible</i></p>
<p><b>structure—</b></p> <p>(a) means any building, equipment, or device; and</p> <p>(b) includes an offshore installation, an artificial island, a floating platform, or a submarine pipeline</p>	<p>The definition is similar to the definition in the RMA which is:</p> <p><i><b>structure</b> means any building, equipment, device, or other facility made by people and which is fixed to land; and includes any raft.</i></p> <p>The definition in this Bill is modified to be more marine-specific by removing the reference to facility that is fixed to land and to include offshore installation, artificial island, floating platforms and submarine pipelines.</p>
<p><b>submarine cable</b> has the same meaning as in section 2 of the Submarine Cables and Pipelines Protection Act 1996</p>	<p><i><b>submarine cable</b> means a cable that lies beneath the high seas or the territorial sea of New Zealand or the internal waters of New Zealand</i></p>
<p><b>trawl net</b> means any net or part of a net (including any warp, rope, chain, material, or device used in conjunction with or attached to the net, but not including a Danish seine net) that—</p> <p>(a) has a buoyancy system on the top edge; and</p> <p>(b) is weighted on the bottom edge; and</p> <p>(c) is operated by being drawn over the seabed or through any waters by 1 or more vessels underway</p>	<p>This definition comes from the Fisheries (Commercial Fishing) Regulations 2001.</p>

Clause	Description
<p><b>trawling</b> means use of a trawl net.</p>	
<p><b><u>Treaty settlement</u></b> means—</p> <p>(a) <u>a Treaty settlement Act; or</u></p> <p>(b) <u>a Treaty settlement deed</u></p>	<p><b>AP changes – technical / minor</b></p> <p>Definition is from the Fast Track Approvals Act 2024 and has been added due to inclusion of the term in the Bill.</p>
<p><b><u>Treaty settlement Act</u></b> means—</p> <p>(a) <u>an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; or</u></p> <p>(b) <u>any other Act that provides redress for Treaty of Waitangi claims, including Acts that provide collective redress or participation arrangements for claimant groups whose claims are, or are to be, settled by another Act, including—</u></p> <p style="padding-left: 20px;">(i) <u>the Maori Commercial Aquaculture Claims Settlement Act 2004;</u></p> <p style="padding-left: 20px;">(ii) <u>the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act and is made under Part 9 of the Fisheries Act 1996</u></p>	<p><b>AP changes – technical / minor</b></p> <p>Definition is from the Fast Track Approvals Act 2024 and has been added due to inclusion of the term in the Bill.</p>
<p><b><u>Treaty settlement deed</u></b>—</p> <p>(a) <u>means a deed or other agreement that—</u></p> <p style="padding-left: 20px;">(i) <u>has been signed by or on behalf of a Minister of the Crown and representatives of a group of Māori; and</u></p> <p style="padding-left: 20px;">(ii) <u>is in settlement of the claims of that</u></p>	<p><b>AP changes – technical / minor</b></p> <p>Definition is from the Fast Track Approvals Act 2024 and has been added due to inclusion of the term in the Bill.</p>

Clause	Description
<p><u>group or in express anticipation, or on account, of that settlement; and</u></p> <p>(b) <u>to avoid doubt, includes a deed or other agreement of the kind described in paragraph (a) that relates to the claims of a collective or combination of Māori groups; but</u></p> <p>(c) <u>does not include an agreement in principle or any document that is preliminary to a signed and ratified deed.</u></p>	
<p><u>trevally means a fish of the species <i>Pseudocaranx dentex</i> (previously known as <i>Caranx georgianus</i>)</u></p>	<p><b>AP changes – technical / minor</b> Definition has been added due to inclusion of the term in the Bill.</p>
<p><b>5A Meaning and purpose of biodiversity objectives</b></p> <p>(1) In this Act, biodiversity objectives means the biodiversity objectives for seafloor protection areas and high protection areas established by regulations made under <b>section 66(1)(a)</b>.</p> <p>(2) The purpose of biodiversity objectives is to set objectives for seafloor protection areas and high protection areas that are—</p> <p>(a) appropriate to the characteristics of the particular area; and</p> <p>(b) consistent with the purposes of seafloor protection areas and high protection areas (see <b>sections 12 and 16</b>).</p>	<p>This clause is for clarity only on the meaning and purpose of the biodiversity objectives established by regulations made under clause 66.</p>
<p><b>5B How this Act applies biodiversity objectives</b></p>	<p>This clause is for clarity only on how biodiversity objectives established under clause 66 are applied.</p>

Clause	Description
<p>(1) This Act applies biodiversity objectives in the following ways:</p> <ul style="list-style-type: none"> <li>(a) in relation to an application made under <b>section 27</b> for a permit to undertake a prohibited activity within a seafloor protection area or a high protection area,— <ul style="list-style-type: none"> <li>(i) <b>section 29(a)</b> provides that the Director-General must consider the anticipated effects of the activity on the biodiversity objectives for the seafloor protection area or high protection area when considering the application; and</li> <li>(ii) <b>section 30(1)(a)(i)</b> provides that the Director-General may grant the permit if satisfied that the activity is consistent with any biodiversity objectives for the seafloor protection area or high protection area:</li> </ul> </li> <li>(b) <b>section 32</b> provides that the Director-General may revoke a permit, or amend any condition of the permit, if the Director-General considers that the activity is inconsistent with the biodiversity objectives for a seafloor</li> </ul>	<p><b>AP changes – technical / minor</b></p> <p>Removal of clause 5B(1)(d) is consequential to the removal of the ability for the Bill to regulate customary non-commercial fishing.</p>

Clause	Description
<p>protection area or high protection area in a manner not anticipated at the time the permit was granted, or is inconsistent with any new or amended biodiversity objectives established after the permit was granted:</p> <p>(c) <b>section 66(1)(b)</b> provides for the making of regulations that regulate activities occurring within a high protection area as reasonably necessary to give effect to the biodiversity objectives for the area:</p> <p><del>(d) <b>section 67</b> provides for the making of regulations that provide for additional management actions relating to high protection areas where restrictions imposed by regulations made under <b>section 66</b> are not sufficient to achieve the biodiversity objectives.</del></p> <p>(2) <b>Subsection (1)</b> is only a guide to the application of biodiversity objectives in this Act.</p>	
<p><b>6. Transitional, savings, and related provisions</b></p> <p>The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.</p>	<p>This clause points to Schedule 1 where any transitional, savings, and related provisions are outlined (there are none).</p>

Clause	Description
<p><b>7. Act binds the Crown</b> This Act binds the Crown.</p>	<p>This clause provides that this Act binds the Crown.</p>
<p><b>8. Application of other enactments</b></p> <p>(1) Except as otherwise specified in this Act,—</p> <p>(a) any person performing a function or exercising a power under this Act must comply with any other legislation that applies to that function or power; and</p> <p>(b) the requirement to obtain a permit under this Act does not limit or otherwise affect the requirement to obtain a permit, consent, or other permission necessary under any other enactment.</p> <p>(2) Nothing in this Act (except <b>subpart 1 of Part 2</b>) limits or otherwise affects the ability of an applicant group to obtain recognition of protected customary rights or customary marine title under the Marine and Coastal Area (Takutai Moana) Act 2011</p>	<p>This clause confirms that this Bill does not remove any requirement under other legislation for activities in these areas e.g. a consent under the RMA will still be needed for relevant activities.</p> <p>Section 2 of this clause provides that the high protection areas and seafloor protection areas established under this Bill will not limit or otherwise affect the ability of an applicant to obtain recognition of rights under the Marine and Coastal Area (Takutai Moana) Act 2011 (Takutai Moana Act).</p> <p><b>Q+A</b> <u>Why include a clause that states the Bill will not affect applications under the Takutai Moana Act?</u> <i>It is unlikely that the establishment of these areas would interfere with the tests under the Takutai Moana Act to obtain recognition of rights (e.g. to demonstrate continued occupation since 1840), this clause provides for the avoidance of doubt.</i> <i>It is not appropriate for the recent establishment of marine protection areas to interfere with an application process – particularly since most applications have been awaiting processing for over 10 years.</i></p> <p><u>What impact, if any, will the proposed ‘Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill’ have on this interaction with the Bill?</u> <i>This clause ensures that the establishment of these areas cannot be considered an interruption to a group’s use and occupation of an area, regardless of what the definition of an interruption is.</i></p>

Clause	Description
	<p><i>It is unlikely the establishment of these areas will be considered an interruption as applications for Customary Marine Title have already been submitted. However, this provides for the avoidance of doubt.</i></p>
<p><b><u>8A Obligation relating to Treaty settlements and recognised customary rights</u></b></p> <p>(1) <u>Any person performing and exercising functions, duties, and powers under this Act must act in a manner that is consistent with the obligations arising under existing Treaty settlements.</u></p> <p>(2) <u>To avoid doubt, subsection (1) does not apply to a court or a person exercising a judicial power or performing a judicial function or duty.</u></p> <p>(3) <u>In this section, existing Treaty settlements means Treaty settlements that exist at the time the relevant function, duty, or power is performed or exercised (rather than only those that exist at the commencement of this Act).</u></p>	<p><b>AP changes – technical / minor</b></p> <p>For avoidance of doubt, this clause has been added to state that all Treaty of Waitangi settlements will be upheld</p>
<p><b>9. Immunities of warships, etc, not affected</b></p> <p>Nothing in this Act limits the immunities of the following:</p> <p>(a) any foreign warship:</p> <p>(b) any other foreign governmental ship operated for non-commercial purposes:</p> <p>(c) any foreign military aircraft:</p>	<p>This clause provides that immunities for certain ships/aircraft are not affected. This aligns with New Zealand obligations under the United Nations Convention on the Law of the Sea (UNCLOS) and is included in other marine legislation.</p>

Clause	Description
<p>(d) members of the crew of a ship or an aircraft to which any of paragraphs (a) to (c) apply.</p>	
<p><b>9A No entitlement to compensation</b></p> <p><del>(1) The Crown is not liable to pay compensation to any person for any loss of, or any adverse effect on, a right or an interest in individual transferable quota or a right to undertake fishing arising from the enactment or operation of this Act.</del></p> <p><del>(2) If there is any inconsistency between this section and any other legislation or rule of law, this section prevails over that legislation or rule of law.</del></p>	<p>This clause confirms that no compensation is available to impacted fishers.</p> <p><b>AP changes – substantive</b> This clause has been removed.</p> <p><b>Q+A</b> <u>Do you expect that the Crown will be liable to pay compensation to fishers impacted by the protection areas with the removal of this clause?</u> No. The results of the Economic Impact Assessment suggest that the impact on fishers would not be significant enough to warrant compensation. However, the removal of this provision provides for compensation claims to be tested.</p>

## Part 2 Marine Reserves, seafloor protection areas, and high protection areas

### Subpart 1—Marine reserves cl10-11

Clause	Description
<p><b>10. Marine reserves declared</b></p> <p>(1) The areas described in Schedule 2 are declared to be marine reserves.</p> <p>(2) The marine reserves have the names given to them in Schedule 2.</p>	<p>This clause provides that marine reserves are declared.</p>
<p><b>11. Effect of marine reserve declarations</b></p> <p>The marine reserves declared by section 10—</p> <p>(1) are to be treated as if they were declared by an Order in Council made under section 4(1) of the Marine Reserves Act 1971; and</p> <p>(2) are subject to any enactment that applies to such marine reserves.</p>	<p>This clause provides that marine reserves established under this Bill will be managed as if established under the Marine Reserves Act.</p> <p>The marine reserves established are, in effect, extensions of existing marine reserves and it is appropriate for the management of these extensions to be consistent with the management of the existing reserves.</p>

### Subpart 2—Seafloor protection areas and high protection areas cl12-18

#### *Seafloor protection areas cl12-15*

Clause	Description
<p><b>12. Purpose of seafloor protection areas</b></p> <p>The purpose of seafloor protection areas is to maintain indigenous benthic habitats within the seafloor protection areas, and if those</p>	<p>This clause sets out the purpose of seafloor protection areas.</p>

Clause	Description
habitats are degraded, restore them.	
<p><b>13. Seafloor protection areas declared</b></p> <p>(1) The areas described in Schedule 3 are declared to be seafloor protection areas.</p> <p>(2) The seafloor protection areas have the names given to them in Schedule 3.</p>	This clause provides that seafloor protection areas are declared.
<p><b>14. Activities prohibited in seafloor protection areas</b></p> <p>(1) A person must not undertake any of the activities described in subsection (2) in a seafloor protection area, unless—</p> <p>(a) section 20 or 21 applies <a href="#">to the activity</a>; or</p> <p>(b) the activity is undertaken in accordance with a permit granted under section 30.</p> <p>(2) The prohibited activities are—</p>	<p>This clause sets out the prohibited activities in seafloor protection areas.</p> <p>Clause 14(1) references that activities undertaken with a permit under this Bill and activities outlined in sections 20 and 21 are exempt from prohibitions.</p> <p><b>AP changes – technical / minor</b> Improved wording.</p>
(a) aquaculture activities:	<p><b>Q+A</b></p> <p><i><u>Why is this activity prohibited in seafloor protection areas?</u></i></p> <p><i>Aquaculture is prohibited in these areas due to the potential impacts on the seafloor including localised organic pollution of the seabed, drop-off of biofouling and debris, smothering by bio-deposits, and increased biosecurity risks.</i></p>

Clause	Description
	<i>There are no existing aquaculture consents and/or applications in these areas.</i>
<p>(b) <del>the</del> dumping, depositing, or <del>discharge of,</del> <u>discharging, whether directly or indirectly, in or into a seafloor protection area,</u> waste or other matter that is likely to have a more than minor adverse effect on aquatic life:</p>	<p>These activities that have a more than minor adverse effect on aquatic life are prohibited.</p> <p><b>AP changes – technical / minor</b>  An amendment has been made so that dumping, depositing, or discharge is prohibited whether the source of these activities is inside or outside of the protection area. This means that dumping that happens outside of the protection area that subsequently flows into the area is prohibited.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in seafloor protection areas?</u>  <i>This activity introduces matter into the marine environment that can impact the seafloor.</i></p>
<p>(c) dredging:</p>	<p><b>Q+A</b>  <u>Why is this activity prohibited in seafloor protection areas?</u>  <i>Dredging involves excavating material from the seafloor, it can be used to clear shipping channels, for maintenance and to keep pipe discharge areas clear.  Dredging as a fishing method involves towing rigid structures along the seabed.  Dredging of all kinds is prohibited as it damages the seafloor.</i></p>
<p>(d) trawling that makes contact with the seabed:</p>	<p><b>Q+A</b>  <u>Why is this activity prohibited in seafloor protection areas?</u>  <i>Dredging, trawling that makes contact with the seabed, and Danish seining are the fishing methods that have the biggest impact on the seafloor.</i></p> <p><u>What does ‘trawling that makes contact with the seabed mean?’ Is this not just bottom trawling?</u></p>

Clause	Description
	<p><i>'Trawling that makes contact with the seabed' means bottom trawling and mid-water trawling that incidentally touches the seabed.</i></p> <p><i>Mid-water trawl gear can be used near the seabed and may contact it – this will be prohibited under the Bill'. Mid-water trawling that does not touch the seabed can occur.</i></p>
(e) Danish seining:	<p><b>Q+A</b></p> <p><u><i>Why is this activity prohibited in seafloor protection areas?</i></u></p> <p><i>Dredging, trawling that makes contact with the seabed, and Danish seining are the fishing methods that have the biggest impact on the seafloor.</i></p> <p><i>Danish seining involves the use of large nets and weighted ropes that are dragged across the seafloor.</i></p>
(f) sand extraction:	<p><b>Q+A</b></p> <p><u><i>Why is this activity prohibited in seafloor protection areas?</i></u></p> <p><i>The prohibition on sand extraction covers the removal of sand which is not regulated under the Crown Minerals Act 1991 (and is therefore not included in the prohibition on mining outlined below). Large-scale sand removal has a negative impact on the seafloor.</i></p> <p><i>Sand extraction may occur to translocate sand to beaches. This does not currently occur in any of the seafloor protection areas.</i></p> <p><i>Small-scale removal of sand is provided for in clause 20.</i></p>
(g) mining activity.	<p><b>Q+A</b></p> <p><u><i>Why is this activity prohibited in seafloor protection areas?</i></u></p> <p><i>Mining is an activity that causes significant impact to the seafloor and is therefore prohibited in seafloor protection areas.</i></p> <p><i>There is low mineral prospectivity in the area.</i></p>
<p><b>15. Additional activities prohibited in Mokohīnau Islands Seafloor Protection Area</b></p> <p><del>(1) — In addition to the prohibitions set out in section</del></p>	<p>This clause provides for the prohibition of additional activities in the Mokohīnau Islands Seafloor Protection Area.</p> <p><b>AP changes – technical / minor</b></p>

Clause	Description
<p><del>14, the following activities are prohibited within the Mokohīnau Islands Seafloor Protection Area:</del></p> <p><del>(a) set netting;</del></p> <p><del>(b) potting that occurs within the area marked with diagonal lines on the indicative map of the Mokohīnau Islands Seafloor Protection Area;</del></p> <p><del>(c) bottom longlining that occurs within the area marked with diagonal lines on the indicative map of the Mokohīnau Islands Seafloor Protection Area.</del></p> <p>(1) <u>In addition to the prohibitions set out in section 14, a person must not undertake any of the activities described in subsection (1A) in the Mokohīnau Islands Seafloor Protection Area, unless—</u></p> <p>(a) <u>section 20 or 21 applies to the activity; or</u></p> <p>(b) <u>the activity is undertaken in accordance with a permit granted under section 30.</u></p> <p><u>(1A) The prohibited activities are—</u></p> <p>(a) <u>set netting;</u></p> <p>(b) <u>potting that occurs within the area comprised of Area A on Survey Office Plan 604785, shown as the area with diagonal lines on the indicative map of the Mokohīnau Islands Seafloor</u></p>	<p>Clause 15(1) was amended to provide for activities that are exempt under clauses 20 or 21, or activities permitted under clause 30 to be exempt from these prohibitions. This aligns with the exemptions for other prohibited activities under seafloor protection areas and high protection areas.</p> <p>Clause 15(1A) was amended to reference areas on Survey Office Plans rather than indicative maps.</p> <p><b>Q+A</b></p> <p><i><u>Why have additional prohibitions at the Mokohīnau Islands seafloor protection area?</u></i></p> <p><i>Rare, fragile and protected black corals and gorgonians (a type of soft coral) are found at the Mokohīnau Islands. Recovery of these species can take decades – possibly hundreds of years.</i></p> <p><i>The additional prohibitions are fishing methods that could impact on these species, e.g. potting.</i></p> <p><i>These additional restrictions are not in place within 0.5nm of most islands/rocks as these species are found at greater depths and are therefore not likely to occur that close to islands/rocks.</i></p>

Clause	Description
<p><u>Protection Area:</u></p> <p>(c) <u>bottom longlining that occurs within the area comprised of Area A on Survey Office Plan 604785, shown as the area with diagonal lines on the indicative map of the Mokohinau Islands Seafloor Protection Area.</u></p> <p>(2) See Schedule 3 for the indicative map of the Mokohinau Islands Seafloor Protection Area.</p>	

*High protection areas cl16-18*

Clause	Explanation
<p><b>16. Purpose of high protection areas</b></p> <p>The purpose of high protection areas is to protect and enhance indigenous biodiversity within the high protection areas and, if that biodiversity is degraded, restore it.</p>	<p>This clause sets out the purpose for high protection areas.</p>
<p><b>17. High protection areas declared</b></p> <p>(1) The areas described in Schedule 4 are declared to be high protection areas.</p> <p>(2) The high protection areas have the names given to them in Schedule 4.</p>	<p>This clause provides that high protection areas are declared.</p>
<p><b>18. Activities prohibited in high protection areas</b></p> <p>(1) A person must not undertake any of the</p>	<p>This clause sets out the prohibited activities in high protection areas.</p>

<p>activities described in subsection (2) in a high protection area, unless—</p> <p>(a) section 19, <u>19A</u>, 20, or 21 applies <u>to the activity</u>; or</p> <p>(b) the activity is undertaken in accordance with a permit granted under section 30.</p> <p>(2) The prohibited activities are—</p>	<p>Clause 18(1) references that activities undertaken with a permit under this Bill and activities outlined in sections 20 and 21 are exempt from prohibitions.</p> <p><b>AP changes – technical / minor</b></p> <p>The inclusion of the reference to 19A is to reference the new ring net fishing provision clause.</p> <p>Improved wording.</p>
<p>(a) fishing:</p>	<p><b>Q+A</b></p> <p><i>Why is this activity prohibited in high protection areas?</i></p> <p><i>Fishing is one of the largest marine-based threats to biodiversity. The exemption for customary non-commercial fishing is outlined in clause 19.</i></p>
<p>(b) aquaculture activities:</p>	<p><b>Q+A</b></p> <p><i>Why is this activity prohibited in high protection areas?</i></p> <p><i>Aquaculture is prohibited in these areas due to the potential impacts on the seafloor including localised organic pollution of the seabed, drop-off of biofouling and debris, smothering by bio-deposits, and increased biosecurity risks. There are no existing aquaculture consents and/or applications in the proposed areas.</i></p>
<p>(b) <del>the removal of</del> <u>removing</u> sand, shingle, non-living shell, or other non-living natural material (within the meaning of section 20(3)):</p>	<p><b>AP changes – technical / minor</b></p> <p>Improved wording.</p> <p><b>Q+A</b></p> <p><i>Why is this activity prohibited in high protection areas?</i></p> <p><i>The removal (including large-scale, or high occurrences of medium-scale) of these materials could alter the natural seascape of these areas.</i></p>
<p>(c) <del>the</del> dumping, depositing, or <del>discharge,</del> <u>discharging, whether directly or indirectly, in or into a high protection area</u> <del>of</del> waste or</p>	<p>These activities that have a more than minor adverse effect on aquatic life are prohibited.</p>

<p>other matter that is likely to have a more than minor adverse effect on aquatic life:</p>	<p><b>AP changes – technical / minor</b>  This amendment has been made so that dumping, depositing, or discharge is prohibited whether the source of these activities is inside or outside of the protection area. This means that dumping that happens outside of the protection area that subsequently flows into the area is prohibited.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  This activity introduces matter into the marine environment that can impact the environment.</p>
<p>(d) <del>the introduction of</del> <u>introducing</u> any living organism:</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  The introduction of a living organism has the potential to disrupt the natural balance of the ecosystem, particularly if the organism does not naturally occur in that area or is a pest species.  A living organism may be introduced to an area if permitted under this Bill e.g., if it was deemed to have restoration benefits to an area.</p>
<p>(e) <del>the construction, alteration, extension, removal, or demolition of</del> <u>constructing, altering, extending, removing or demolishing</u> a structure (including a ship):</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  These activities create disturbance to aquatic life and are therefore prohibited by this Bill.  This clause does not prohibit ‘maintenance’ activities.</p>
<p>(f) <del>the causing of</del> vibrations (other than vibrations caused by the propulsion of a ship), <u>in or into a high protection area</u>, in a manner that is likely</p>	<p><b>AP changes – technical / minor</b>  The amendment has been introduced so that the causing of vibrations is prohibited whether the source of these activities is inside or outside of the protection area.</p>

<p>to have a more than minor adverse effect on aquatic life:</p>	<p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  <i>Vibrations can interfere with behaviour and communication of certain marine species.</i></p>
<p>(g) <del>the disturbance (including by excavating, drilling, tunnelling, or dredging) of</del> <u>disturbing</u> aquatic life, habitats, or <u>the</u> water column <u>(including by excavating, drilling, tunnelling, or dredging)</u> in a manner that is likely to have a more than minor adverse effect on aquatic life:</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  <i>These activities create disturbance to aquatic life and are therefore prohibited by this Bill.</i></p>
<p>(h) <del>the destruction or damage of</del> <u>destroying or damaging</u> the seabed and subsoil in a manner that is likely to have an adverse effect on the seabed and subsoil:</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  <i>These activities create disturbance to the seafloor and are therefore prohibited by this Bill.</i></p>
<p>(i) <del>the landing of</del> <u>landing</u> an aircraft:</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  <i>The landing of an aircraft, including airplanes and helicopters, cannot occur in high protection areas. This is due to the noise and vibration impacts.</i>  <i>This does not apply to the landing of aircraft for emergency situations or the landing of aircraft for training activities undertaken by the New Zealand Defence Force.</i></p>
<p>(j) <del>the causing of</del> <u>causing</u> an explosion:</p>	<p><b>AP changes – technical / minor</b>  Improved wording.</p>

	<p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  Explosions cannot occur within a high protection area due to the likely impact on aquatic life.</p>
(k) mining activity.	<p><b>AP changes – technical / minor</b>  Improved wording.</p> <p><b>Q+A</b>  <u>Why is this activity prohibited in high protection areas?</u>  Mining is an activity that causes significant impact to the environment and is therefore prohibited in high protection areas.  There is low mineral prospectivity in the area.</p>

*Activities to which prohibitions do not apply cl19-21*

Clause	Explanation
<p><b>19. Customary fishing in high protection areas</b></p> <p>(2) Despite section 18, a person may undertake customary fishing within a high protection area if—</p> <p>(a) the person is authorised to undertake customary fishing under—</p> <p>(i) regulations made under section 186 of the Fisheries Act 1996; or</p> <p>(ii) regulations made under section 297 of the Fisheries Act 1996 for the purpose of section 10 of the Treaty of Waitangi (Fisheries Claims)</p>	<p>This clause provides that customary fishing as regulated under fisheries legislation can occur in high protection areas so long as fishing methods that have the potential for high impact are not used.</p> <p><b>AP changes – technical / minor</b>  This amendment is consequential to the amendment to clause 66 which removes the ability to regulate customary non-commercial fishing from the Bill.</p> <p><b>Q+A</b>  <u>Why is customary non-commercial fishing provided for in the Bill?</u>  This Bill has two purposes, one to establish protection areas, and one to acknowledge customary rights.  Customary non-commercial fishing can occur in high protection areas to the extent provided for under existing fisheries regulations. This protects rights secured under te Tiriti o Waitangi and protected in law through the Treaty of</p>

Clause	Explanation
<p>Settlement Act 1992; or</p> <p><del>(b) — the person complies with any regulations made under section 66 or 67 relating to the high protection area.</del></p> <p>(c) The person does not utilise any of the following fishing methods:</p> <ul style="list-style-type: none"> <li>(i) Dredging;</li> <li>(ii) Trawling that makes contact with the seabed</li> <li>(iii) Danish seining</li> </ul> <p>(3) To avoid doubt, this section—</p> <ul style="list-style-type: none"> <li>(a) applies only to customary fishing within high protection areas; and</li> <li>(b) does not apply to the activities prohibited by sections 14 and 15 in seafloor protection areas.</li> </ul>	<p><i>Waitangi (Fisheries Claims) Settlement Act 1992 and the 1992 Deed of Settlement.</i></p> <p><i>It is not expected that these activities will have a significant impact on biodiversity outcomes.</i></p>
<p><b><u>19A Ring net fishing in certain high protection areas</u></b></p> <p>(1) <u>Despite section 18, a person may undertake ring net fishing within the high protection areas specified in subsection (2) if—</u></p> <ul style="list-style-type: none"> <li>(a) <u>the person is authorised to undertake ring net fishing by the Director-General in accordance with subsections (3) to (5); and</u></li> <li>(b) <u>the person complies with any restrictions and</u></li> </ul>	<p><b>AP – substantive change</b></p> <p>This clause has been added to the Bill and empowers limited ring net fishing with details of the conditions outlined in clause 67A. This clause states that ring net fishing can occur in the two identified high protection areas so long as that person is authorised by the Director-General of DOC, the person complies with regulations that are developed under clause 67, and fishing is in accordance with the Fisheries Act.</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Explanation
<p><u>conditions prescribed by regulations made under section 67 that applies to the persons undertaking ring net fishing.</u></p> <p>(2) <u>The high protection areas are—</u></p> <p>(a) <u>Kawau Bay High Protection Area:</u></p> <p>(b) <u>Rangitoto and Motutapu High Protection Area.</u></p> <p>(3) <u>The Director-General may, in writing, authorise a person who meets the requirements of subsection (4) to undertake ring net fishing.</u></p> <p>(4) <u>The Director-General may authorise a person to undertake ring net fishing only if—</u></p> <p>(a) <u>the person is a commercial fisher; and</u></p> <p>(b) <u>the person has, before the commencement of this Act, undertaken ring net fishing in 1 (or both) of the following high protection areas:</u></p> <p style="padding-left: 40px;">(i) Kawau Bay High Protection Area:</p> <p style="padding-left: 40px;">(ii) Rangitoto and Motutapu High Protection Area; and</p> <p>(c) <u>the ring net fishing described in paragraph (b) was undertaken in any of the following fishing years:</u></p> <p style="padding-left: 40px;">(i) the year beginning 1 October 2021:</p> <p style="padding-left: 40px;">(ii) the year beginning 1 October 2022:</p> <p style="padding-left: 40px;">(iii) the year beginning 1 October 2023.</p>	

Clause	Explanation
<p>(5) <u>The Director-General’s written authorisation must—</u></p> <p>(a) <u>specify the authorised person’s fisheries client number; and</u></p> <p>(b) <u>set out the restrictions and conditions prescribed by regulations made under section 67 that apply to the authorised person undertaking ring net fishing; and</u></p> <p>(c) <u>contain any other information prescribed by the regulations.</u></p> <p>(6) <u>A person undertaking ring net fishing in accordance with subsection (1) must comply with the Fisheries Act 1996 and any secondary legislation made under that Act.</u></p> <p>(7) <u>This section does not limit the application of section 19.</u></p> <p>(8) <u>In this section, fisheries client number means the unique identification number assigned, by the chief executive for the time being of the Ministry responsible for the administration of the Fisheries Act 1996, to a person who is included in any class listed in section 189 of that Act.</u></p>	
<p><b>20. Small-scale removal of natural material in seafloor protection areas and high protection areas</b></p> <p>(1) If a person complies with subsection (2), the person may do the following:</p> <p>(a) despite section 14(2)(f), remove sand from a seafloor protection area:</p>	<p>This clause provides that the small-scale removal of natural material can occur in seafloor protection areas and high protection areas.</p> <p><b>Q+A</b>  <u>Why provide for the small-scale removal of natural material?</u></p>

Clause	Explanation
<p>(b) despite section 18(2)(c), remove sand, shingle, non-living shell, or other non-living natural material from a high protection area.</p> <p>(2) A person who removes sand, shingle, non-living shell, or other non-living natural material from a seafloor protection area or high protection area—</p> <p>(a) may remove only a small quantity of the material; and</p> <p>(b) may do so only for non-commercial purposes; and</p> <p>(c) must not use a method of collection that involves the use of machinery or cutting equipment.</p> <p>(3) In this section –</p> <p>Other non-living natural material –</p> <p>(a) includes driftwood; but</p> <p>(b) does not include aquatic life</p> <p>Small quantity means no more than a person can carry on their person, in a single trip, in 1 day.</p>	<p><i>This specifies that people picking up small quantities of shells or other natural materials in the intertidal area or from the seafloor will not be committing an offence.</i></p>

Clause	Explanation
<p><b>20A Anchoring in seafloor protection area or high protection area</b></p> <p>(1) A person may anchor a vessel in a seafloor protection area or a high protection area if the person does so in a manner that is unlikely to have a more than minor adverse effect on aquatic life.</p> <p>(2) This section is to avoid doubt.</p>	<p>This clause provides clarity that careful anchoring can occur in seafloor protection areas and high protection areas.</p> <p><b>Q+A</b>  <u>How can a person know if their anchoring activity will have a more than minor adverse effect on aquatic life?</u>  <i>There will be a responsibility for boaties to understand and follow good anchoring practices. This includes limiting anchoring to areas with soft sediment such as sand or mud.</i>  <i>It is anticipated that most anchoring will be acceptable. However, if someone drops and drags and anchor on a reef, this will be an offence under the Bill.</i></p>
<p><b>21. Other activities to which prohibitions do not apply</b></p> <p>The prohibitions in sections 14, 15, and 18 do not apply to—</p>	<p>This clause provides for activities that are exempt from the prohibitions specified in clauses 14, 15 and 18.</p>
<p>(aaa) the exercise of protected customary rights or <del>rights held by a customary marine title group</del> <u>customary marine title rights</u> under the Marine and Coastal Area (Takutai Moana) Act 2011</p>	<p>This clause provides that existing rights held under the <i>Marine and Coastal Area (Takutai Moana) Act 2011</i> ('customary marine title' and 'protected customary rights') can be exercised in protection areas. This Bill does not create any new powers.</p> <p><b>AP changes – technical / minor</b>  Improved wording for additional clarity to which rights are being referenced.</p> <p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>The purpose of the Bill includes the acknowledgement of customary rights. Exempting rights held under the Takutai Moana Act provides for this.</i></p> <p><u>What impact will the provision of these rights have on biodiversity outcomes?</u></p>

Clause	Explanation
	<p><i>The scope of rights held under the Takutai Moana Act is limited. For example, rights cannot be granted for any activities under the Fisheries Act. Examples of rights that may be obtained include to collect hāngī stones and the launching of waka.</i></p> <p><i>This limited scope means there is unlikely to be a significant impact on biodiversity objectives by exempting the exercise of these rights.</i></p>
<p>(a) any activity for which resource consent has been granted under the Resource Management Act 1991 at the time this Act commences, until the expiration of that consent:</p>	<p>This clause provides that existing consent holders can continue to operate in seafloor protection areas and high protection areas until expiry of the consent.</p> <p><b>Q+A</b> <u>Why is this activity exempt?</u></p> <p>This exemption creates certainty for consent holders and provides for ease of implementation.</p> <p><u>What happens when someone wants to renew their consent?</u></p> <p><i>Once an existing consent has expired, the person or organisation holding the consent will need to reapply under the RMA if they intend to continue the activity. If, at this time, the activity conflicts with the prohibitions in this Bill, a permit under this Bill would also be required.</i></p> <p><i>Many of the existing consented activities in these areas would not require a permit under this Bill e.g. a consent for an existing wharf, as continued occupation of the coastal marine area is not prohibited.</i></p> <p><i>An assessment of RMA consented activities in the last 15 years found that &lt;1 activity per year would need a permit under this Bill.</i></p>
<p>(b) any activity carried out under the Biosecurity Act 1993:</p>	<p>This clause provides that activities carried out under the Biosecurity Act 1993 can continue in these areas.</p> <p><b>Q+A</b> <u>Why is this activity exempt?</u></p>

Clause	Explanation
	<p><i>Invasive species are a serious threat to healthy marine ecosystems e.g. caulerpa. Uninterrupted activities to address these threats is in the interests of achieving biodiversity outcomes of the Bill.</i></p>
<p>(c) any activity <del>carried out</del> <u>that is expressly allowed, without obtaining resource consent</u>, under regulations made under section 360(1)(a) and (ha) to (hh) of the Resource Management Act 1991 that relate to the regulation of marine pollution:</p>	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides for controlled discharges and dumping from ships as regulated under the RMA to continue. These regulations give effect to international conventions.</i></p>

Clause	Explanation
<p>(d) the discharge of stormwater, if that discharge is a permitted activity for the purposes of the Resource Management Act 1991:</p>	<p>This clause provides that the permitted discharge of stormwater under the RMA can continue. This is an activity that can be carried out without a resource consent if it meets certain requirements</p> <p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>The discharge of stormwater is common and in some cases it would be impractical to modify discharge practices to avoid discharge into a protection area.</i>  <i>Stormwater discharge as permitted under the RMA must meet environmental standards and this clause is in part for the avoidance of doubt that these activities can occur.</i></p> <p><u>Why allow for this activity but no other 'permitted' activities under the RMA?</u>  <i>Other 'permitted' activities were considered for exemption and were determined not necessary or appropriate to do so.</i>  <i>Many 'permitted' activities wouldn't be prohibited by this Bill. Some activities may have an impact on biodiversity and a permit under this Bill would be appropriate to ensure the purpose of the Bill is met (e.g. depositing of material where the deposited sediment is extracted from within the same coastal cell, mangrove seedling removal).</i></p>
<p>(da) any activity undertaken by the department in the performance of its functions <del>or exercise of its powers</del> under this Act</p>	<p><b>AP changes – technical / minor</b>  A department does not have powers, only functions (a Director-General can have powers). The wording of the Bill is updated to reflect this.</p> <p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause ensures that the carrying out of functions and powers (referenced in 21A) are not prohibited under the Bill (e.g. marking of boundaries are not prohibited through the prohibition on structures).</i></p>

Clause	Explanation
<p>(db) any activity for which, at the time this Act commences, <del>a permit</del> <u>an approval</u> has been granted under any <del>Act</del> <u>legislation</u> administered by the department, until the expiration of that <del>permit</del> <u>approval</u>.</p>	<p><b>AP changes – technical / minor</b>  This clause has been amended to refer to ‘approvals’ rather than ‘permits’ and ‘legislation’ rather than ‘Act’ as the previously used terms were too limited in scope.</p> <p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that those with existing permits under DOC legislation can continue to operate in seafloor protection areas and high protection areas until expiry of the consent. This creates certainty and provides for ease of implementation.</i></p>
<p>(dc) any of the following activities undertaken by or on behalf of a local authority:</p> <ul style="list-style-type: none"> <li>i. monitoring or enforcement of a regional coastal plan or resource consent:</li> <li>ii. any activity undertaken in relation to state of the environment reporting:</li> <li>iii. any activity undertaken in relation to scientific research or conservation:</li> </ul>	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that local authority activities that align with the purposes of the Bill can continue.</i></p>

Clause	Explanation
(e) any work or activity of the Crown that the Minister of Defence certifies is necessary for reasons of national security:	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that activities for national security can occur in these areas.</i></p>
(f) training activities undertaken by the New Zealand Defence Force:	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that activities undertaken by the New Zealand Defence Force can occur in these areas. This exemption was added as the NZDF has a facility on the Whangaparaoa peninsula which will be surrounded by a seafloor protection area.</i></p> <p><i>The NZDF requested that they may be exempted from carrying out certain military training activities such as training in firing of weapons (as some bullets or casings may enter the ocean).</i></p>
(g) the placement, maintenance, repair, alteration, or extension of a submarine cable.	<p>This clause provides for activities related to submarine cables can occur in these areas.</p> <p><b>Q+A</b>  <u>Why is this activity exempt? Can't these activities have a high impact on biodiversity?</u>  <i>Submarine cables play a critical role in New Zealand – we rely on these cables for 98% of our international communications. This is why they have been exempted under the Bill.</i>  <i>There is an existing cable in the Kawau Island Bay High Protection Area which connects the island to the mainland. Any maintenance or repair activities for this existing cable would be exempt under the Bill.</i></p>

Clause	Explanation
	<i>There is currently no known intention to establish a new submarine cable in a seafloor protection area or high protection area. Any new cable would require a consent under the RMA.</i>
(h) any action necessary in an emergency relating to human safety or the protection of the environment:	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that activities necessary to ensure human safety in an emergency or activities in emergencies that protect the environment e.g., responses to extreme weather events can occur in these areas.</i></p>
(i) any other action taken in response to marine oil spills or other pollution:	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides that activities to address oil spills or pollution can occur. These activities may otherwise conflict with the prohibitions in this Bill e.g., dumping chemicals designed to remove oil from the water surface.</i></p>
(j) transit shipping that complies with the London Convention	<p><b>Q+A</b>  <u>Why is this activity exempt?</u>  <i>This clause provides for the passage of all ships through these areas.</i></p>

*Functions of department and reporting requirements for seafloor protection areas and high protection areas (cl21A-21B)*

Clause	Description
<p>21A Functions <del>and powers</del> of department</p> <p>(1) The department has the following functions <del>and powers</del> under this Act:</p>	<p>This clause provides for DOC functions and powers.  This clause is based on similar clauses in the Marine Reserves Act and the Conservation Act.</p> <p><b>AP changes – technical / minor</b>  A department does not have powers, only functions (a Director-General can have powers). The wording of the Bill is updated to reflect this.</p>
(a) to manage and administer the seafloor protection areas and high protection areas in accordance with this Act:	This clause provides for management of the areas – it is a capture all for anything that is not explicitly provided for below.

Clause	Description
(b) to mark the boundaries of seafloor protection areas and high protection areas:	This clause provides for DOC to mark boundaries, including by land-based signs and/or buoys. This clause does not remove any requirements for consultation or approvals from Maritime NZ, councils, or other affected parties.
(c) to undertake or commission research, monitoring, and reporting in relation to the seafloor protection areas or high protection areas:	This clause provides for DOC to undertake or commission research, monitoring and reporting. This is relevant to clause 21B which stipulates that the Director-general must report on research and monitoring.
(d) to perform <del>or exercise</del> any function, <del>power</del> , or duty provided under any other legislation administered by the department, to the extent that the function, <del>power</del> , or duty is consistent with the purpose of the seafloor protection area or high protection area:	<p>This clause provides for DOC to do any activity under any DOC legislation in these areas. This includes activities such as those under the Marine Mammal Protection Act (e.g. responding to whale strandings).</p> <p><b>AP changes – technical / minor</b>  A department does not have powers, only functions (a Director-general can have powers). The wording of the Bill is updated to reflect this.</p>
(e) to perform any other function conferred on the department under this Act.	This clause provides that any function listed in this Act can be carried out.
(2) The Director-General has all the powers that are reasonably necessary or desirable to carry out the functions conferred on the Director-General or the department under this Act.	<p>This clause provides that the Director-General has the powers to carry out the functions.</p> <p>This clause mirrors existing clauses in the Conservation Act and Marine Reserves Act.</p>
<p><b>21B Director-General must report on research and monitoring</b></p> <p>(1)The Director-General must, at least once every 5 years, report to the Minister on any research or monitoring undertaken in relation to seafloor protection areas and high protection areas.</p>	This clause provides that a report on research and monitoring must be produced every five years.

Clause	Description
(2)The first report must be completed no later than 5 years after the commencement of this Act.	The clause requires that the first report must be completed within five years of the Bill being enacted.
(3)The Director-General’s report— (a)must summarise any information that can be reasonably obtained relating to research or monitoring undertaken in relation to seafloor protection areas and high protection areas; and (b)must be made publicly available on an internet site maintained by or on behalf of the department.	This clause outlines what must be included in the report (e.g. any information that can be reasonably obtained) and that the report must be published on the DOC website.
(4)See <b>section 68</b> for requirements for ministerial review at 25-yearly intervals.	This clause refers to the ministerial review in section 68 as these activities are related i.e. the monitoring reports will inform the ministerial review.

Subpart 3—Official geographic names cl22-25

Clause	Description
<p><b>22. Interpretation</b></p> <p>In this subpart,—</p> <p><b>Board</b> has the meaning given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008</p> <p><b>official geographic name</b> has the meaning given in section 4 of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.</p>	<p>This clause is for interpretation purposes.</p> <p><b>Board</b> means the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa</p> <p><b>Official geographic name—</b></p> <p>(a) means—</p> <p>(i) the name of a geographic feature assigned, approved, or altered under this Act and publicly notified in accordance with this Act; or</p> <p>(ii) the names validated by section 35; and</p> <p>(b) includes—</p>

Clause	Description
	<ul style="list-style-type: none"> <li>(i) the name of a Crown protected area reviewed and concurred with by the Board under subpart 3 of Part 2; and</li> <li>(ii) a name published in the <i>Gazette</i> under the New Zealand Geographic Board Act 1946; and</li> <li>(iii) the place names assigned, altered, or discontinued under a Treaty of Waitangi Settlement Act enacted before the commencement of this Act; and</li> <li>(iv) alternative official geographic names</li> </ul>
<p><b>23. Official geographic names</b></p> <p>The names given to each of the following are official geographic names for the purpose of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008:</p> <ul style="list-style-type: none"> <li>i. marine reserves declared by section 10 and listed in Schedule 2:</li> <li>ii. seafloor protection areas declared by section 13 and listed in Schedule 3:</li> <li>iii. high protection areas declared by section 17 and listed in Schedule 4.</li> </ul>	<p>The clause stipulates what the names of the protection areas are by referencing schedules of the protection areas.</p>
<p><b>24. Publication of official geographic names</b></p> <p>(1) The Board must, as soon as practicable after commencement of this Act, give public notice, in accordance with section 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008, of each official geographic name</p>	<p>This clause provides for publication requirements of the official geographic names.</p>

Clause	Description
<p>specified under section 23.</p> <p>(2) The notice must state that each official geographic name became an official geographic name on the date on which this Act commenced.</p>	
<p><b>25. Subsequent alteration of official geographic names</b></p> <p>(1) In making a determination to alter the official geographic name established by this Act, the Board—</p> <p>(a) must consult the Director-General; and</p> <p>(b) if the name is a Māori name,—</p> <p>(i) must consult <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the relevant area; and</p> <p>(ii) must ensure that the names use standardised orthography; but</p> <p>(c) need not comply with sections 27 to 31A of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.</p> <p>(2) To avoid doubt, the Board must give public notice of a determination made under subsection (1) in accordance with section 21(2) and (3) of the New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008.</p>	<p>This clause outlines the process for a changing the name of a protection area. This will most likely occur due to an error made in the naming or following te Tiriti o Waitangi settlement.</p> <p><b>AP changes – technical / minor</b></p> <p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p>



Part 3 Permits, enforcement, and regulations for protected areas cl26-69

Clause	Description
<p><b>26. Interpretation of this Part</b></p> <p>(1) In this Part, unless the context otherwise requires,—  <b>effect—</b>                      (a) includes, irrespective of the scale, intensity, duration, or frequency of the effect,—                      (i) any positive or adverse effect; and                      (ii) any temporary or permanent effect; and                      (iii) any past, present, or future effect; and                      (iv) any cumulative effect arising over time or in combination with other effects; and                      (b) also includes—                      (i) any potential effect of high probability; and                      (ii) any potential effect of low probability that has a high potential impact</p> <p><b>protected area</b> means a seafloor protection area or a high protection area</p>	<p>This clause is for interpretation purposes.</p> <p>This clause makes is clear that a broad range of effects are to be considered when making permitting decisions.</p> <p>The definition of a ‘protected area’ further clarifies that this section does not apply to the marine reserves established under this Act.</p>

Subpart 1—Permits cl27-34

Clause	Description
<p><b>27. Application for permits</b></p> <p>(1) A person may apply to the Director-General for a permit authorising the person to undertake a prohibited activity within a protected area.</p> <p>(2) An application for a permit must be made in a form</p>	<p>This clause outlines what information is required for an application for a permit.</p> <p>More detail on information required, including an application form, will be provided on the DOC website.</p>

Clause	Description
<p>approved by the Director- General and include—</p> <ul style="list-style-type: none"> <li>(a) the applicant’s name and contact details; and</li> <li>(b) a description of the proposed activity; and</li> <li>(c) the anticipated effects of the proposed activity.</li> </ul> <p>(3) The Director-General may reject an application for a permit on the basis that inadequate information has been provided.</p>	
<p><b>28. Director-General may seek further information</b></p> <p>(1) When considering an application for a permit made under section 27, the Director-General may do all or any of the following:</p> <ul style="list-style-type: none"> <li>(a) request further information from the applicant:</li> <li>(b) consult any person or group that the Director-General considers appropriate:</li> <li>(c) commission any report that the Director-General considers appropriate:</li> <li>(d) require the applicant to provide any report that the Director-General considers appropriate.</li> </ul> <p><del>(2) The applicant must pay the costs associated with the Director-General’s inquiries under this section in the manner provided in the regulations.</del></p>	<p>This clause provides for the Director-General seeking further information beyond what was sought through the application form.</p> <p><b>AP change – technical / minor</b></p> <p>The clause providing for the development of regulations for cost recovery under this section has been removed. Cost recovery for these actions is provided for through section 60A-D of the Conservation Act. This aligns with other cost recovery activities under this Bill.</p>

Clause	Description
<p><b>29. Matters to be considered by Director-General</b></p> <p>Before making a decision on an application for a permit, the Director-General must consider—</p> <p>(aaa) whether, and to what extent, the activity is consistent with the purpose of the protected area; and</p> <p>(a) the anticipated effects of the activity on the protected area and its biodiversity objectives; and</p> <p>(b) the anticipated effects of the activity on the rights and interests of <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area; and</p> <p>(c) if the anticipated effects of the activity are negative, reasons why the activity—</p> <p>(i) is necessary; and</p> <p>(ii) can only occur within the protected area; and</p> <p>(d) any measures that can be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.</p>	<p>This clause outlines what the Director-General must consider when deciding on an application for a permit.</p> <p><b>AP changes – technical / minor</b></p> <p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p> <p><b>Q+A</b></p> <p><i>Why isn't engagement required with iwi for decisions on permits?</i></p> <p><i>Engagement is implicitly required for the Director-General to consider the anticipated effects of the activity on the rights and interests of iwi.</i></p>
<p><b>30. Decision of Director-General</b></p> <p>(1) After considering an application for a permit and any further information, the Director-General</p>	<p>This clause provides for the Director-General to grant a permit.</p> <p>There are two scenarios where a permit can be granted:</p> <ol style="list-style-type: none"> <li>1. if the activity aligns with the purpose/objectives of the Bill (e.g., for</li> </ol>

Clause	Description
<p>may—</p> <p>(a) grant the permit, if satisfied that—</p> <p>(i) the activity is consistent with the purpose of the protected area and any biodiversity objectives for the protected area; and</p> <p>(ii) the applicant will take reasonable steps to avoid, remedy, or mitigate any adverse effects of the activity on the rights and interests <del>of whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area; or</p> <p>(b) grant the permit, if satisfied that—</p> <p>(i) the activity is necessary; and</p> <p>(ii) the activity can only occur within the protected area; and</p> <p>(iii) the applicant will take reasonable steps to avoid, remedy, or mitigate any adverse effects of the activity on the rights and interests of <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area; or</p> <p>(c) decline the application, in the Director-General’s discretion.</p> <p>(1A) However, <b>subsection (1)(a) and (b)</b> is subject to <b>section 30A</b>.</p>	<p>scientific study or restoration) AND reasonable steps are taken to address adverse effects; or</p> <p>2. the activity is necessary and must occur in that area (e.g., critical infrastructure, wharves, jetties etc) AND reasonable steps are taken to address adverse effects.</p> <p>Under both these scenarios, the Director-General can impose conditions on the permit that they consider appropriate. This includes any conditions to minimise the impact of the activity on biodiversity.</p> <p>(1A) requires clause 30A to be met before a permit may be granted. Clause 30A is discussed below.</p> <p><b>AP changes – technical / minor</b></p> <p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p> <p>Amendment to the word ‘department’ is a grammatical fix.</p>

Clause	Description
<p>(2) When granting a permit under subsection (1)(a) or (b), the Director-General—</p> <p>(a) may impose any conditions on the permit that the Director-General considers appropriate (including any condition that gives effect to the permit holder’s obligations under subsection (1)(a)(ii) or (b)(iii)); and</p> <p>(b) must provide for the expiry date of the permit.</p> <p>(3) The Director-General must—</p> <p>(a) notify the following persons of the decision and the reasons for it:</p> <p>(i) the applicant;</p> <p>(ii) <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area and that have engaged with the application; and</p> <p>(b) publicly notify the decision on an internet site maintained by or on behalf of the <del>Department</del> <a href="#">department</a>.</p>	
<p><b>30A Additional requirements if Marine and Coastal Area (Takutai Moana) Act 2011 applies to activity</b></p> <p>(1) This section applies if any of sections 55, 62A, 66, and 71 of the Marine and Coastal Area (Takutai Moana) Act 2011 apply to the activity.</p> <p>(2) Before granting a permit under section 30(1)(a) or (b),</p>	<p>This clause provides that the Director-General cannot grant a permit until relevant requirements under the <i>Marine and Coastal Area (Takutai Moana) Act 2011</i> are met. This requirement is only triggered if an RMA consent is also required for the activity.</p> <p><b>Q+A</b>  <u><i>What are the additional requirements created here and why?</i></u></p>

Clause	Description
<p>the Director-General must be satisfied of the following:</p> <ul style="list-style-type: none"> <li>(a) if section 55 of the Marine and Coastal Area (Takutai Moana) Act 2011 applies to the activity, that the relevant protected customary rights group has given its written approval for the activity in accordance with section 55(2)(a) (unless section 55(3) applies to the activity):</li> <li>(b) if section 62A of that Act applies to the activity, that the applicant has met the information requirements of that section to the satisfaction of the relevant consent authority:</li> <li>(c) if section 66 or 71 of that Act applies to the activity, that the applicant has obtained permission from the relevant customary marine title group in accordance with the applicable section.</li> </ul>	<p><i>This clause provides that the Director-general can only grant a permit under this Bill if rights provided under the Takutai Moana Act that relate to the RMA have been met, if applicable (i.e. the activity also requires a consent under the RMA). For the Director-General to grant a permit, they will need to receive evidence of permission granted in relation to sections 55, 66 or 71 of the Takutai Moana Act or confirmation from the relevant consent authority that information requirements have been met in relation to section 62A of the Takutai Moana Act.</i></p> <p><u><i>Further detail on the relevant sections of the Takutai Moana Act:</i></u></p> <p><i>55: This section provides that no activity that would have an adverse effect on a protected customary right can occur without permission from the rights holder</i></p> <p><i>62A: This section requires an applicant to confirm that they have notified and sought feedback from groups who have applied for customary marine title</i></p> <p><i>66: This section provides that the applicant must receive permission from a customary marine title holder to carry out an activity in the customary marine title area</i></p> <p><i>71: This section provides that a customary marine title group can give or decline permission for the MOC or Director-general to consider an application for a conservation activity (eg marine reserve or concession).</i></p>
<p><b>31. Amendment to permit conditions</b></p> <ul style="list-style-type: none"> <li>(1) The Director-General may amend the conditions of a permit— <ul style="list-style-type: none"> <li>(a) in accordance with any condition in the permit; or</li> <li>(b) to correct a minor or technical error; or</li> <li>(c) with the permit holder’s agreement; or</li> </ul> </li> </ul>	<p>This clause outlines the process and scenarios where a permit can be modified.</p>

Clause	Description
<p>(d) on 1 or more of the grounds specified in section 32; or</p> <p>(e) in accordance with an application by the permit holder under subsection (2).</p> <p>(2) The permit holder may apply to the Director-General for any conditions of the permit to be amended.</p> <p>(3) An application must be accompanied by any information required by the Director-General to assess the application.</p> <p>(4) After making any amendment to the conditions of a permit, the Director-General must—</p> <p>(a) notify the permit holder within a reasonable time; and</p> <p>(b) allow the permit holder a reasonable opportunity to comply with any amended conditions.</p>	
<p><b>32. Revocation of permit or amendment to permit conditions due to adverse effects and other grounds</b></p> <p>The Director-General may, at any time, revoke a permit granted under section 30, or amend any condition of the permit, if the Director-General considers that the activity <a href="#">to which the permit relates</a>—</p> <p>(a) is causing adverse effects to the protected area</p>	<p>This clause provides for the circumstances under which the Director-General may revoke or amend a permit.</p> <p><b>AP changes – technical / minor</b></p> <p>Improved wording.</p> <p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p>

Clause	Description
<p>that are greater than those anticipated at the time the permit was granted; or</p> <p>(b) is inconsistent with the biodiversity objectives for the protected area in a manner that was not anticipated at the time the permit was granted; or</p> <p>(ba) is inconsistent with any new or amended biodiversity objectives for the protected area set after the permit was granted; or</p> <p>(c) is inconsistent with the rights and interests of <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area in a manner that was not anticipated at the time the permit was granted.</p>	<p><b>Q+A</b>  <u>What happens if new biodiversity objectives are developed? Must an existing permit be modified?</u>  <i>There is a possibility that a permit is granted under this Bill and then new biodiversity objectives are made or are modified which could create some uncertainty for that permit holder. However, officials consider it likely that potential biodiversity objectives would be anticipated and provided for at the time of issuing a permit.</i></p> <p><i>This clause also only states that the Director-general may (not must) revoke or amend a permit in response to new/updated biodiversity objectives. A practical approach will be taken that appropriately considers certainty for the permit holder.</i></p>
<p><b>33. Appeal to High Court on question of law</b></p> <p>(1) The following persons may appeal to the High Court against the decisions of the Director-General specified in subsection (2):</p> <p>(a) the applicant:</p> <p>(b) the permit holder:</p> <p>(c) <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the protected area.</p> <p>(2) The decisions that may be appealed against are—</p> <p>(a) the decision to grant or decline an application for a permit:</p>	<p>This clause stipulates that the decision of the Director-General can be appealed, but only on a question of law. This means appeals can only be made on aspects of decisions relating to whether the law was interpreted correctly, not the merits of the decision or the facts.</p> <p>This clause stipulates who can appeal the decision. This is limited to the parties involved in the permitting process to improve certainty.</p> <p>This clause does not prevent judicial review proceedings. Judicial review will be more useful should persons wish to challenge the process.</p> <p><b>AP changes – technical / minor</b>  The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold</p>

Clause	Description
<ul style="list-style-type: none"> <li>(b) the decision to impose any conditions on the granting of a permit:</li> <li>(c) the decision to make any amendment to the conditions of a permit:</li> <li>(d) the decision to grant or decline an application to amend permit conditions:</li> <li>(e) the decision to revoke a permit.</li> </ul> <p>(3) An appeal brought under this section may be only on a question of law.</p>	<p>when it comes to engagement and consideration of rights and interests of Māori.</p>
<p><b>34. Permit may be transferred</b></p> <p>A permit may be transferred to another person if—</p> <ul style="list-style-type: none"> <li>(a) the permit holder applies to the Director-General for the permit to be transferred; and</li> <li>(b) the Director-General agrees to the transfer.</li> </ul>	<p>This clause provides for a permit to be transferred to another person under specified circumstances.</p>

Subpart 2—Monitoring and enforcement cl35-64

*Appointment and powers of rangers cl35-40*

Clause	Description
<p><b>35. Rangers appointed under other enactments</b></p> <p>The following persons are to be treated as if they were appointed by the Director-General to exercise the powers and duties of a ranger under this Act:</p>	<p>This clause outlines who has ranger powers and duties under this Act.</p>

Clause	Description
<ul style="list-style-type: none"> <li>(a) a person appointed as a warranted officer under section 59(1) or (9) of the Conservation Act 1987:</li> <li>(b) a person appointed as a fishery officer under section 196 or 197 of the Fisheries Act 1996:</li> <li>(c) every officer in command of any vessel or aircraft of the New Zealand Defence Force:</li> <li>(d) every constable.</li> </ul>	
<p><b>36. Appointment of honorary rangers</b></p> <p>(1) The Director-General may appoint any suitable person to be a ranger in an honorary capacity to perform the duties of a ranger under this Act.</p> <p>(1A) The Director-General may appoint the person to—</p> <ul style="list-style-type: none"> <li>(a) perform the duties of a ranger in 1 or more of the protected areas; and</li> <li>(b) exercise all of the powers specified in <b>sections 37 to 40</b>, or only some of those powers.</li> </ul> <p>(2) The Director-General must supply each ranger with a warrant that—</p>	<p>This clause provides for the appointment of honorary rangers. Honorary rangers are not paid and are not employed under the Public Service Act.</p> <p><b>Q+A</b></p> <p><i><u>Do honorary rangers have the same powers as rangers?</u></i></p> <p><i>Not necessarily. An honorary ranger may be appointed a subset of the powers available in this Bill – and this subset of powers will be specific to the person. The clause also clarifies to which areas the powers apply e.g. particular high protection areas. Honorary rangers undertake the same training as rangers appointed under this Bill. This training is carried out by DOC. Honorary rangers can be mana whenua.</i></p>

Clause	Description
<ul style="list-style-type: none"> <li>(a) states the full name of the person; and</li> <li>(b) includes a summary of the powers conferred on the person under this Act.</li> </ul> <p>(3) A ranger exercising a power under this Act must have their warrant with them and must produce it if required to do so.</p> <p>(4) A ranger—</p> <ul style="list-style-type: none"> <li>(a) is appointed for a term specified by the Director-General (not exceeding 3 years), and may be reappointed; and</li> <li>(b) may be removed from office at any time by the Director-General for incapacity, neglect of duty, or misconduct.</li> </ul> <p>(5) A ranger must surrender their warrant to the Director-General on the termination of their appointment.</p> <p>(6) A person appointed as a ranger under this section is not, by virtue of the appointment, deemed to be employed for the purposes of the Public Service Act 2020.</p>	
<p><b>37. General powers of rangers</b></p> <p>(1) A ranger who believes on reasonable</p>	<p>This clause provides for the powers of rangers.</p>

Clause	Description
<p>grounds that a person is committing, has committed, or is about to commit, an offence against this Act may—</p> <ul style="list-style-type: none"> <li>(a) order the person to refrain from or stop offending; and</li> <li>(b) require the person to provide their full name, date of birth, and address, and evidence of those particulars.</li> </ul> <p>(2) For the purposes of exercising their powers under this Act, a ranger may, without warrant, pursue and stop a person if the ranger believes on reasonable grounds that the person is committing or has committed an offence against this Act.</p>	
<p><b>38. Power to question persons and require production of documents</b></p> <ul style="list-style-type: none"> <li>(1) A ranger may exercise the powers in this section for the purposes of monitoring compliance with any requirements imposed under this Act, including any permit conditions.</li> <li>(2) A ranger may require any person— <ul style="list-style-type: none"> <li>(a) to stop, or to stop any vessel, vehicle, or other conveyance in their control; and</li> <li>(b) to answer any question reasonably</li> </ul> </li> </ul>	<p>This clause provides for a ranger to gather the information they need in relation to compliance with activities under this Act.</p> <p><b>AP change – technical / minor</b></p> <p>This clause has been amended to refer to ‘legislation’ rather than ‘Act’ as ‘Act’ is too limited in scope (ie does not include regulations).</p>

Clause	Description
<p>necessary to enable the ranger to establish whether the person is complying with this Act, any regulations made under this Act, or any conditions of a permit; and</p> <p>(c) to produce any permit, consent, authority, licence, or document issued under this Act or any other <b>Act legislation</b>, and related to the person or vessel.</p> <p>(3) Part 4 of the Search and Surveillance Act 2012 (except subpart 3) applies to the exercise of powers under this section.</p> <p>(4) Section 60 of the Evidence Act 2006 applies in relation to a requirement under subsection (2)(b) and (c).</p>	
<p><b>39. Powers of entry, search, and seizure</b></p> <p>(1) A ranger may exercise the powers in this section if the ranger believes, on reasonable grounds, that a person is committing, or has committed, an offence under this Act.</p> <p>(2) The ranger may, <del>in the presence of the person,</del>—</p> <p>(a) stop, enter, and search any vehicle, vessel, aircraft, or structure in the</p>	<p>This clause provides for a ranger to gather evidence related to suspected offending.</p> <p><b>AP changes – technical / minor</b></p> <p>The text ‘in the presence of the person’ has been removed be clear that ‘the presence of the person’ is not required for entry and search powers to be exercised. The requirement for ‘the presence of the person’ is outdated and there are numerous scenarios where the person cannot or does not want to be present e.g., the person could be an incorporated body.</p>

Clause	Description
<p>control of the person; and</p> <p>(b) open and search any parcel, package, container, or luggage in the control of the person.</p> <p>(3) The ranger may seize any item, document, or thing (including a vessel or vehicle) that the ranger believes, on reasonable grounds,—</p> <p>(a) is being or has been used in the commission of an offence under this Act; or</p> <p>(b) is evidence of the commission of an offence under this Act.</p> <p>(4) The provisions of Part 4 of the Search and Surveillance Act 2012 (except subpart 3) apply to the exercise of powers under this section.</p>	
<p><b>40. Powers to seize and release or dispose of fish, aquatic life, seaweed, or natural material</b></p> <p>(1) This section applies if a ranger exercising their powers under this Act finds or sights any fish, aquatic life, seaweed, or natural material that the ranger believes on reasonable grounds was removed from a protected area in contravention of this Act.</p>	<p>This clause provides rangers with the power to seize and dispose of aquatic and natural material.</p>

Clause	Description
<p>(2) The ranger may seize—</p> <ul style="list-style-type: none"> <li>(a) the fish, aquatic life, seaweed, or natural material; and</li> <li>(b) any fish, aquatic life, seaweed, or natural material with which the fish, aquatic life, seaweed, or natural material has been intermixed.</li> </ul> <p>(3) Any fish, aquatic life, or seaweed seized by a ranger that is alive and likely to survive must be returned—</p> <ul style="list-style-type: none"> <li>(a) to the protected area; or</li> <li>(b) to any part of the sea, if it is not practicable to return the fish, aquatic life, or seaweed to the protected area.</li> </ul> <p>(4) Any fish, aquatic life, or seaweed seized by a ranger that is dead or unlikely to survive, and any natural material, may be—</p> <ul style="list-style-type: none"> <li>(a) returned to the protected area or to any part of the sea, if the ranger considers that it is appropriate to return the fish, aquatic life, seaweed, or natural material to the protected area or to the sea; or</li> <li>(b) dealt with in the manner provided in subpart 6 of Part 4 of the Search and Surveillance Act 2012.</li> </ul>	

Clause	Description
(5) Part 4 of the Search and Surveillance Act 2012 (except subpart 3) applies to the exercise of powers under this section.	

*Offences cl41-46*

Clause	Description
<p><b>41. Offence to undertake prohibited activity within protected area</b></p> <p>(1) A person commits an offence if the person undertakes a prohibited activity within a seafloor protection area contrary to section 14 or 15.</p> <p>(2) A person commits an offence if the person undertakes a prohibited activity within a high protection area contrary to section 18.</p> <p>(3) A person who commits an offence referred to in subsection (1) or (2) is liable on conviction <del>to a fine not exceeding \$100,000.</del> <u>—</u></p> <p>(a) <u>to a fine not exceeding \$100,000; or</u></p> <p>(b) <u>to a sentence of community work.</u></p> <p>(4) A person who commits an offence referred to in subsection (1) or (2) for a commercial</p>	<p>This clause outlines the strict liability offences (i.e. do not need to prove a person knew the activity was prohibited). The maximum fines are less for strict liability offences than for mens rea (clause 42).</p> <p>Defence for strict liability offences are outlined in clause 44.</p> <p>Strict liability offences provide for when infringement notices are inadequate for serious offences and where mens rea is likely to be difficult to prove beyond reasonable doubt.</p> <p><b>AP changes – technical / minor</b></p> <p>The ability to give community-based sentences has been added for offences in clause 41(3). The inclusion of community-based sentences was agreed to by Cabinet but had previously been omitted from the Bill.</p>

Clause	Description
<p>purpose is liable on conviction to a fine not exceeding \$200,000.</p> <p>(5) For the purposes of this section, a court may find that a person has a <b>commercial purpose</b> if the court is satisfied beyond reasonable doubt that—</p> <p>(a) the offence was committed for the purpose of commercial gain or reward (whether or not any gain or reward is realised); or</p> <p>(b) in the case of a prohibited activity that involves fishing, the person is in possession of a number of fish that exceeds by at least 3 times the amateur individual daily limit.</p>	
<p><b>42. Offence to knowingly undertake prohibited activity within protected area</b></p> <p>(1) A person commits an offence if the person knowingly undertakes a prohibited activity within a seafloor protection area contrary to <b>section 14 or 15</b></p> <p>(2) A person commits an offence if the person knowingly undertakes a prohibited activity within a high protection area contrary to <b>section 18</b>.</p>	<p>This clause outlines the mens rea offences (i.e. must be able to prove the person knew it was an offence).</p> <p>In this case, the onus is on the prosecution to prove that the defendant intended to do the prohibited act or had knowledge of it.</p>

Clause	Description
<p>(3) A person who commits an offence referred to in <b>subsection (1) or (2)</b> is liable on conviction to a term of imprisonment not exceeding 3 months, or to a fine not exceeding \$250,000, or both.</p>	
<p><b>43. Other offences</b></p> <p>(1) A person commits an offence if the person is in possession of, or disposes of, any fish, aquatic life, seaweed, or natural material that the person knows was removed from a protected area in contravention of section 14, 15, or 18.</p> <p>(2) A person commits an offence if the person, knowingly and without reasonable excuse,—</p> <ul style="list-style-type: none"> <li>(a) fails to comply with an order or a requirement of a ranger issued under section 37, 38, or 39; or</li> <li>(b) refuses to provide a ranger with information requested under section 38; or</li> <li>(c) pretends to be a ranger, by their words, conduct, or demeanour, in circumstances likely to lead another person to believe that the person is a</li> </ul>	<p>This clause outlines offences that do not refer to the prohibitions under clauses 14, 15 and 18, e.g. failing to comply with a ranger.</p>

Clause	Description
<p>ranger; or</p> <p>(d) obstructs or threatens a ranger acting in the course of duty.</p> <p>(3) A person who commits an offence referred to in subsection (1) or (2) is liable on conviction to a term of imprisonment not exceeding 3 months, or to a fine not exceeding \$100,000, or both.</p>	
<p><b>44. Prosecution and defence for strict liability offences</b></p> <p>(1) In a prosecution for an offence against section 41, it is not necessary to prove that the defendant intended to commit the offence.</p> <p>(2) The defendant has a defence if the defendant proves—</p> <p>(a) that the defendant did not intend to commit the offence; and</p> <p>(b) that,—</p> <p>(i) in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or</p>	<p>This clause provides a defence for those prosecuted for a strict liability offence (where it is not necessary to prove intent).</p>

Clause	Description
<p>(ii) in any case where it is alleged that anything prohibited was done, the defendant took all reasonable steps to ensure that it was not done.</p>	
<p><b>45. Liability of director or manager of body corporate</b></p> <p>(1) This section applies when a body corporate is convicted of an offence against this Act.</p> <p>(2) A director or manager of the body corporate is also guilty of the offence if it is proved that the director or manager—</p> <p>(a) authorised, permitted, consented to, or participated in the act or omission that constituted the offence; or</p> <p>(b) knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.</p>	<p>This clause provides for directors or managers or body corporates to be liable for offences or for authorising / permitting offences.</p> <p>Similar clauses exist across a range of other legislation eg the <i>Fisheries Act</i> and the <i>Education and Training Act 2020</i>.</p>
<p><b>46. Time for filing charging document</b></p> <p>Despite section 25 of the Criminal Procedure Act 2011, no charging document may be filed in respect of an offence under this Act</p>	<p>This clause limits the time under which a charging document can be filed to within 12 months of when the offence was committed.</p>

Clause	Description
after the date that is 12 months after the date on which the offence was committed.	

*Infringement offences cl47-56*

Clause	Description
<p><b>47. Infringement offences</b></p> <p>(1) A person must not—</p> <ul style="list-style-type: none"> <li>(a) undertake a prohibited activity within a seafloor protection area contrary to section 14 or 15; or</li> <li>(b) undertake a prohibited activity within a high protection area contrary to section 18; or</li> <li>(c) use, dispose of, or be in possession of, any fish, aquatic life, seaweed, or natural material that has been removed from a protected area in contravention of section 14, 15, or 18.</li> </ul> <p>(2) A person who contravenes subsection (1) commits an infringement offence and is liable to—</p> <ul style="list-style-type: none"> <li>(a) an infringement fee of the amount prescribed in the regulations; or</li> <li>(b) a fine imposed by a court not exceeding the amount prescribed in</li> </ul>	<p>This clause lists the offences that can be infringement offences (it includes all offences except for failing to comply with a ranger, impersonating a ranger and threatening a ranger).</p> <p>Regulations for infringement offences will be in place when the Bill is implemented. An education-first approach to compliance will be taken initially.</p>

Clause	Description
the regulations.	
<p><b>49. Proceedings for infringement offences</b></p> <p>(1) A person who is alleged to have committed an infringement offence may—</p> <p>(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or</p> <p>(b) be issued with an infringement notice under section 51.</p> <p>(2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.</p> <p>(3) See section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.</p>	<p>This clause outlines the proceedings for infringement offences. This reflects the Marine Reserves Act.</p>
<p><b>50. Who may issue infringement notices</b></p> <p>The Director-General may, in writing, authorise a ranger to issue infringement notices under this Act.</p>	<p>This clause provides for who may issue an infringement notice i.e. a ranger authorised by the Director-General. This reflects the Marine Reserves Act.</p>

Clause	Description
<p><b>51. When infringement notice may be issued</b></p> <p>A ranger authorised under section 50 may issue an infringement notice to a person if the ranger believes on reasonable grounds that the person is committing, or has committed, an infringement offence.</p>	<p>This clause provides for when an infringement notice may be issued. This reflects the Marine Reserves Act.</p>
<p><b>52. Revocation of infringement notice before payment made</b></p> <p>(1) The ranger may revoke an infringement notice before—</p> <ul style="list-style-type: none"> <li>(a) the infringement fee is paid; or</li> <li>(b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.</li> </ul> <p>(2) The ranger must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.</p> <p>(3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in section 49(1)(a) or (b) against the person to whom the notice was issued in respect of the same matter.</p>	<p>This clause provides for a ranger to revoke an infringement notice before payment is made. This reflects the Marine Reserves Act.</p>

Clause	Description
<p><b>53. What infringement notice must contain</b></p> <p>An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:</p> <ul style="list-style-type: none"> <li>(a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:</li> <li>(b) the amount of the infringement fee:</li> <li>(c) the address of the place where the infringement fee may be paid:</li> <li>(d) how the infringement fee may be paid:</li> <li>(e) the time within which the infringement fee must be paid:</li> <li>(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:</li> <li>(g) a statement that the person served with the notice has a right to request a hearing:</li> <li>(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:</li> </ul>	<p>This clause outlines what an infringement notice must contain. This reflects the Marine Reserves Act.</p> <p>The regulations for these notices will be in place once the Bill is implemented.</p>

Clause	Description
<p>(i) any other matters prescribed in the regulations.</p>	
<p><b>54. How infringement notice may be served</b></p> <p>(1) An infringement notice (or a copy of it) may be served on the person who the ranger believes is committing or has committed the infringement offence by—</p> <p>(a) delivering it to the person; or</p> <p>(b) sending it to the person by prepaid post addressed to the person’s last known place of residence or place of business.</p> <p>(2) An infringement notice (or a copy of it) sent by post to a person under subsection (1)(b) is to be treated as having been served on the person when it was posted.</p>	<p>This clause outlines how an infringement notice may be served. This reflects the Marine Reserves Act.</p>
<p><b>55. Payment of infringement fees</b></p> <p>All infringement fees paid for infringement offences must be paid into a Crown Bank Account.</p>	<p>This clause outlines how infringement fees must be paid. This reflects the Marine Reserves Act.</p>
<p><b>56. Reminder notices</b></p> <p>A reminder notice must be in the form</p>	<p>This clause outlines the form of reminder notices. This reflects the Marine Reserves Act. The regulations for these notices will be in place once the Bill is implemented.</p>

Clause	Description
prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.	

*Removal of structure cl57*

Clause	Description
<p><b>57. Removal of structures</b></p> <p>(1) This section applies if the owner or occupier of a structure within a high protection area—</p> <ul style="list-style-type: none"> <li>(a) constructs, alters, extends, removes, or demolishes the structure, or part of the structure, in contravention of this Act or the conditions of a permit granted under this Act; and</li> <li>(b) in relation to a contravention specified in paragraph (a),— <ul style="list-style-type: none"> <li>(i) commits an offence under this Act; or</li> <li>(ii) is convicted of an offence under this Act; or</li> <li>(iii) pays an infringement fee or pleads guilty or is found guilty of an infringement offence under this Act.</li> </ul> </li> </ul> <p>(2) The Director-General or a ranger may, by</p>	

<p>notice in writing, require the owner or occupier of the structure to remove it or alter it at the owner's or occupier's cost within a period specified in the notice (being not less than 30 working days).</p> <p>(3) If the owner or occupier of the structure fails to comply with the notice issued under subsection (2), the Director-General or ranger may give the owner or occupier 5 working days' notice in writing of their intention to remove or alter the structure.</p> <p>(4) On the expiry of the 5-working-day period the Director-General or ranger may, without further notice, remove or alter the structure.</p> <p>(5) The cost of the removal or alteration of the structure is a debt due to the Crown and may be recoverable by the department in a court of competent jurisdiction.</p>	
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*Forfeiture cl58-64*

Clause	Description
<p><b>58. Forfeiture of property on conviction</b></p> <p>(6) If a person is convicted of an offence against this Act, the following may be forfeited to the Crown by order of the court:</p> <p>(a) any property used in the commission of the offence, including any vessel,</p>	<p>This clause provides for the forfeiture of property on conviction. This reflects the Marine Reserves Act.</p>

Clause	Description
<p>vehicle, or other conveyance:</p> <ul style="list-style-type: none"> <li>(b) any fish, aquatic life, seaweed, or natural material retained under section 40(4) to which the offence related:</li> <li>(c) any proceeds from the sale of any fish, aquatic life, seaweed, or natural material retained or disposed of by the Director-General under section 40(4) to which the offence related.</li> </ul> <p>(7) A person must not be discharged without conviction for an offence against this Act unless the court considers that, in the circumstances of the offending, it would be unjust to make an order of forfeiture under subsection (1).</p> <p>(8) Items that are forfeited to the Crown under subsection (1)—</p> <ul style="list-style-type: none"> <li>(a) are forfeited to the Crown absolutely and without encumbrance; and</li> <li>(b) may be disposed of as the Director-General thinks fit.</li> </ul>	
<p><b>59. Forfeiture for infringement offence</b></p> <p>(1) If an infringement notice is issued to a person for an infringement offence, any fish, aquatic life, seaweed, or natural material in respect of</p>	<p>This clause provides for the forfeiture of aquatic life / natural material, or the proceeds from the sale of these items for an infringement offence. This reflects the Marine Reserves Act.</p>

Clause	Description
<p>which the infringement offence is committed, and any proceeds from the sale of any fish, aquatic life, seaweed or natural material under section 40, is forfeited to the Crown when the earliest of the following occurs:</p> <ul style="list-style-type: none"> <li>(a) the infringement fee for the offence is paid:</li> <li>(b) a copy of a reminder notice for the infringement offence is filed, or a reminder notice is deemed to have been filed, in a court under section 21 of the Summary Proceedings Act 1957 before the close of the date that is 6 months after the date on which the offence is alleged to have been committed:</li> <li>(c) the Director-General and the person enter into an arrangement under section 21(3A) of the Summary Proceedings Act 1957 allowing the person to pay the relevant infringement fee by instalments:</li> <li>(d) the person is found guilty of, or pleads guilty of, the infringement offence.</li> </ul> <p>(2) A court may order that any property used in respect of the commission of an infringement offence (including, without limitation, a vessel or vehicle) be forfeited to the Crown if—</p> <ul style="list-style-type: none"> <li>(a) proceedings for an infringement offence</li> </ul>	

Clause	Description
<p>are commenced by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; and</p> <p>(b) a person is found guilty of, or pleads guilty of, the infringement offence.</p> <p>(3) Items that are forfeited to the Crown under this section—</p> <p>(a) are forfeited to the Crown absolutely and without encumbrance; and</p> <p>(b) may be disposed of as the Director-General thinks fit.</p>	
<p><b>60. Interpretation of provisions relating to forfeited property</b></p> <p>In sections 61 to 64, unless the context otherwise requires,—</p> <p><b>forfeited property</b> means anything forfeited to the Crown under section 58 or 59</p> <p><b>interest</b> means a legal or an equitable interest in that forfeited property that existed at the time of the forfeiture, but does not include an interest (including ownership) in a foreign vessel or foreign-owned New Zealand fishing vessel or foreign-operated fish carrier.</p>	<p>This clause is for interpretation purposes. This reflects the Marine Reserves Act.</p>

Clause	Description
<p><b>61. Application for relief</b></p> <p>(1) Within 10 working days after the date of any forfeiture under section 58 or 59, the Director-General must publicly notify—</p> <ul style="list-style-type: none"> <li>(a) the details of the forfeited property; and</li> <li>(b) the rights of persons to apply under this section.</li> </ul> <p>(2) A person claiming an interest in any forfeited property may, within 35 working days after the date of the forfeiture, apply to the District Court for relief from the effect of forfeiture on that interest.</p> <p>(3) An application under subsection (2) must include—</p> <ul style="list-style-type: none"> <li>(a) a description of the forfeited property in which the interest is claimed; and</li> <li>(b) details of the interest claimed, including whether it is— <ul style="list-style-type: none"> <li>(i) legal or equitable; or</li> <li>(ii) by way of security, including details of the security arrangement; or</li> <li>(iii) noted on any register; and</li> </ul> </li> <li>(c) an estimate of the value of the forfeited property and the claimed interest in it.</li> </ul>	<p>This clause outlines the process for a person to seek relief from having their property forfeited. This reflects the Marine Reserves Act.</p>

Clause	Description
<p><b>62. Matters to be considered and determined by court</b></p> <p>(1) The court must hear all applications in respect of the same property together, unless it considers that it would not be in the interests of justice to do so.</p> <p>(2) Before making a decision in respect of an application made under section 61, the court must—</p> <p>(a) determine the matters set out in subsection (3); and</p> <p>(b) have regard to the matters set out in subsection (4).</p> <p>(3) The court must determine—</p> <p>(a) the value of the forfeited property, which is the amount that the property would realise if sold at public auction in New Zealand; and</p> <p>(b) the nature, extent, and, if possible, value of the applicant’s interest in the property; and</p> <p>(c) the cost to the <del>Department</del> <a href="#">department</a> of—</p> <p>(i) the prosecution of the offence or the pursuance of the</p>	<p>This clause outlines what matters must be considered and determined by the court when considering relief for forfeited property. This reflects the Marine Reserves Act.</p> <p><b>AP changes – technical / minor</b> Grammatical fix.</p>

Clause	Description
<p>infringe- ment offence which resulted in the forfeiture; and</p> <ul style="list-style-type: none"> <li>(ii) the seizure and holding, and anticipated cost of disposal, of the forfeited property; and</li> <li>(iii) any court proceedings in respect of the seizure, holding, and disposal.</li> </ul> <p>(4) The court must have regard to—</p> <ul style="list-style-type: none"> <li>(a) the purpose of this Act; and</li> <li>(b) the effect of the offence from which the forfeiture arose on— <ul style="list-style-type: none"> <li>(i) the seafloor protection area or high protection area; and</li> <li>(ii) the people who use the seafloor protection area or high protection area; and</li> </ul> </li> <li>(c) the type of offending from which the forfeiture arose, including— <ul style="list-style-type: none"> <li>(i) the prevalence of the offending; and</li> <li>(ii) the effect of the type of offending on the seafloor protection area or high protection area; and</li> <li>(iii) the effect of the type of offending on the people who use the sea- floor protection area or high</li> </ul> </li> </ul>	

Clause	Description
<p style="text-align: center;">protection area; and</p> <ul style="list-style-type: none"> <li>(d) any history of offending of the persons from whose convictions (if any) the forfeiture arose; and</li> <li>(e) the social and economic effects on the owner of the forfeited property, and their employees, of non-release of the forfeited property; and</li> <li>(f) any economic benefits, actual or potential, to the owner of the forfeited property through the commission of the offence; and</li> <li>(g) the costs determined under subsection (3)(c); and</li> <li>(h) any other matters the court considers relevant.</li> </ul>	
<p><b>63. Decision of court on application</b></p> <ul style="list-style-type: none"> <li>(1) The court may make an order or orders providing relief (in whole or in part) from the effect of forfeiture on any of the interests determined under section 62(3).</li> <li>(2) However, the court may make an order under <b>subsection (1)</b> only if it is necessary to avoid manifest injustice.</li> <li>(4) An order made under subsection (1) may,</li> </ul>	<p>This clause outlines the parameters of the decision of the court on an application for relief from forfeited property. This provision is modernised from the Marine Reserves Act (by removing the requirement that relief can only be provided up to 60% of the property).</p>

Clause	Description
<p>without limiting that subsection, order 1 or more of the following:</p> <ul style="list-style-type: none"> <li>(a) the retention of the forfeited property by the Crown:</li> <li>(b) the return of some or all of the forfeited property to the owner at the time of forfeiture, with or without the prior payment to the Crown of a sum of money:</li> <li>(c) the sale of some or all of the forfeited property, with directions as to the manner of sale and dispersal of proceeds:</li> <li>(d) the delivery of some or all of the forfeited property to a person with an interest in the property, with or without directions as to payment of a sum of money to specified persons (including the Crown) before that delivery:</li> <li>(e) the reinstatement (despite the forfeiture) of any interest that was forfeited or cancelled as a result of a forfeiture.</li> </ul>	
<p><b>64. Other matters relating to forfeiture</b></p> <p>(1) Sections 61 to 63 do not require the Crown to</p>	<p>This clause outlines matters related to forfeiture that was not covered in previous clauses e.g. that the Director-General or any employee of DOC are entitled to appear before the court to be heard. This reflects the Marine Reserves Act.</p>

Clause	Description
<p>pay, or secure the payment of, any sum of money to any person claiming an interest in forfeited property, other than the net proceeds of sale of forfeited property under a court order made under section 63.</p> <p>(2) For the purpose of assisting the court in determining any application for relief, the Director-General and any employee or agent of the <del>Department</del> <u>department</u> are entitled to appear before the court and be heard.</p> <p>(3) Any forfeiture under section 58 or 59, or any payment of a sum of money or delivery of property under section 63(1) to persons claiming an interest, must be in addition to, and not in substitution for, any other penalty that may be imposed by the court or by this Act.</p>	<p><b>AP changes – technical / minor</b> Grammatical fix.</p>

Subpart 3—Regulations, review, and consequential amendments cl65-69

*Regulations cl65-67*

Clause	Description
<p><b>65. General regulations</b></p> <p>(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:</p> <p>(a) providing for anything this Act says</p>	<p>This clause provides for regulations to be developed including for the management of the protected areas and penalties for infringement offences.</p>

Clause	Description
<p>may or must be provided for by regulations:</p> <ul style="list-style-type: none"> <li>(c) providing for the management of protected areas, including (without limitation) regulating - <ul style="list-style-type: none"> <li>(i) access to protected areas;</li> <li>(ii) visitor effects on protected areas;</li> <li>(iii) anchoring within protected areas;</li> <li>(iv) health and safety matters within protected areas</li> </ul> </li> <li>(e) prescribing penalties for infringement offences under this Act, which,— <ul style="list-style-type: none"> <li>(i) in the case of infringement fees, must not be more than \$1,000; and</li> <li>(ii) in the case of maximum fines, must not be more than twice the amount of the infringement fee for the offence:</li> </ul> </li> <li>(f) prescribing offences for a breach of the regulations and maximum fines for those offences not exceeding \$2,500:</li> <li>(g) prescribing infringement offences for a breach of the regulations and prescribing for those offences— <ul style="list-style-type: none"> <li>(i) infringement fees, which must not</li> </ul> </li> </ul>	

Clause	Description
<p>be more than \$1,000; and</p> <p>(ii) maximum fines, which must not be more than twice the amount of the infringement fee for the offence:</p> <p>(h) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.</p> <p>(1A) Before recommending the making of regulations under subsection (1)(c), the Minister must be satisfied that, if consultation with any person affected by the proposed regulations is appropriate, sufficient consultation with that person or their representative has occurred.</p> <p>(2) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</p>	
<p><b>66. Regulations for biodiversity objectives and associated restrictions</b></p> <p>(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that provide for—</p> <p>(a) the setting of biodiversity objectives for <u>each</u> seafloor protection area<del>s</del> and high</p>	<p>This clause provides for regulations to be developed to set biodiversity objectives for seafloor protection areas and high protection areas. This clause also provides for regulations on activities in high protection areas to give effect to the biodiversity objectives.</p> <p><b>AP changes – substantive</b></p> <p>An amendment to this clause removes the ability for customary non-commercial fishing to be regulated under this Bill. Customary non-commercial fishing in high protection areas will continue to be regulated under the Fisheries Act.</p>

Clause	Description
<p>protection areas; and</p> <p>(b) the regulation of activities occurring within high protection areas (<del>including</del> <u>except</u> the regulation of customary fishing) as reasonably necessary to give effect to the biodiversity objectives.</p> <p>(2) The Minister must not make a recommendation under subsection (1) unless the Minister <u>is satisfied that</u> —</p> <p><del>(a) has consulted the Minister responsible for the administration of the Fisheries Act 1996; and</del></p> <p>(b) <del>is satisfied that</del> the proposals for regulations—</p> <p>(i) were developed <del>collaboratively in</del> <u>consultation</u> with <del>whānau, hapū, and</del> iwi that exercise kaitiakitanga in the <u>relevant</u> seafloor protection area or high protection area; and</p> <p>(ii) are based on the best available information, including mātauranga Māori; and</p> <p><del>(iii) if the proposals relate to the regulation of customary fishing, impose any restrictions on customary fishing only to the minimum extent necessary to give</del></p>	<p>As a consequence of the removal of ability for the Bill to regulate customary non-commercial fishing, the following amendments are also made:</p> <ul style="list-style-type: none"> <li>• replacement of the requirement for <u>collaborative</u> development of biodiversity objectives with mana moana to a <u>consultation</u> requirement</li> <li>• removal of the requirement for the Minister to consult with the Minister responsible for the administration of the Fisheries Act 1996 on biodiversity objectives.</li> </ul> <p><b>AP changes – technical / minor</b></p> <p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Description
<p style="text-align: center;"><del>effect to the biodiversity objectives.</del></p> <p><del>(e) is satisfied that,</del> if consultation with any person affected by the proposed regulations is appropriate, sufficient consultation with that person or their representative has occurred.</p> <p>(2A) Regulations that set biodiversity objectives for each seafloor protection area and high protection area must be made under <b>subsection (1)(a)</b> no later than 2 years after the commencement of this Act.</p> <p>(3) Regulations made under <b>subsection (1)(b)</b> may provide for all or any of the following:</p> <ul style="list-style-type: none"> <li>(a) restrictions relating to when activities may occur:</li> <li>(b) restrictions relating to how activities may occur:</li> <li>(c) reporting requirements relating to activities:</li> <li>(d) any other restrictions or requirements that the Minister considers necessary to give effect to the biodiversity objectives.</li> </ul> <p>(4) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</p>	

Clause	Description
<p><del>67. Regulations for additional management actions in high protection areas</del></p> <p><del>The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that provide for additional management actions in relation to activities that occur within high protection areas (including customary fishing).</del></p> <p><del>(1) Before making a recommendation under subsection (1), the Minister must be satisfied that—</del></p> <p><del>(a) biodiversity objectives and associated restrictions have been established by regulations made under section 66 in relation to the high protection area; and</del></p> <p><del>(b) there is evidence that the restrictions are not sufficient to achieve the biodiversity objectives; and</del></p> <p><del>(c) the additional management actions are necessary to achieve the biodiversity objectives.</del></p> <p><del>(2) The Minister must not make a recommendation under subsection (1) unless the Minister is satisfied that the following persons have been consulted on the additional</del></p>	<p>This clause provided for the Minister of Conservation to recommend any further regulation of activities within high protection areas.</p> <p><b>AP changes – substantive</b></p> <p>This clause has been removed as the amendments to clause 66 made this clause largely redundant.</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Description
<p><del>management actions:</del></p> <p><del>(a) the Minister responsible for the administration of the Fisheries Act 1996:</del></p> <p><del>(b) the whānau, hapū, and iwi that exercise kaitiakitanga in the high protection area.</del></p> <p><del>(3) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</del></p>	
<p><b><u>67 Regulations for restrictions and conditions that apply to authorised persons undertaking ring net fishing</u></b></p> <p>(1) <u>The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that prescribe restrictions and conditions that apply to an authorised person undertaking ring net fishing in accordance with section 19A.</u></p> <p>(2) <u>Regulations made under subsection (1)-</u></p> <p>(a) <u>must provide for-</u></p> <p>(i) <u>restrictions relating to the period when an authorised person may undertake ring net fishing, which may be any period of time during the period starting on 1 March</u></p>	<p>This clause provides for the creation of regulations for ring net fishing. This clause sets the parameters for what can be in the regulations and is limited to parameters agreed to by Cabinet and / or subsequently agreed to by the Minister of Conservation and Minister for Oceans and Fisheries.</p> <p><b>AP changes – substantive</b></p> <p>This clause was added to provide a regulation making power for ring net fishing conditions.</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Description
<p><u>and ending on 31 August of each year only; and</u></p> <p>(ii) <u>restrictions relating to the species of fish that an authorised person may take, which may be all or any of the following species only:</u></p> <p>A. <u>kahawai:</u></p> <p>B. <u>grey mullet:</u></p> <p>C. <u>trevally:</u></p> <p>(b) <u>may provide for any other restrictions or conditions that apply to an authorised person undertaking ring net fishing that the Minister considers necessary</u></p> <p>(3) <u>Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</u></p>	

*Review of seafloor protection areas, high protection areas, and ring net fishing provisions cl68-68B*

Clause	Description
<p><b>68. Ministerial review <u>of seafloor protection areas and high protection areas</u></b></p> <p>(1) The Minister and the Minister responsible for the administration of the Fisheries Act 1996 must review the operation, effectiveness, and management of each of the following that are in place at the time of the review:</p>	<p>This clause provides for a 25-year review of the high protection areas and seafloor protection areas. The 5-yearly reports produced by the Department of Conservation will inform this review.</p> <p><b>AP changes – technical / minor</b></p> <p>The title of this clause has been amended to provide clarity to the protection areas this provision applies to.</p>

Clause	Description
<p>(a) the seafloor protection areas declared under section 13:</p> <p>(b) the high protection areas declared under section 17.</p> <p>(2) A review must be initiated—</p> <p>(a) before the expiry of 25 years after the commencement of this Act; and</p> <p>(b) every 25 years after that; and</p> <p>(c) at any other time that the Ministers consider appropriate.</p> <p>(3) The Ministers must ensure that, as part of the review, there is reasonable opportunity for interested persons (including <del>whānau, hapū,</del> <b>and</b> iwi that exercise kaitiakitanga in any protected area subject to the review) to make submissions on the operation, effectiveness, and management of the seafloor protection areas and high protection areas specified in subsection (1).</p> <p>(4) The Ministers must, within 2 years of the review being initiated, —</p> <p>(a) prepare a report on the review; and</p> <p>(b) present the report to the House of Representatives.</p>	<p>The Bill has been amended so that all references to ‘whānau, hapū, and iwi’ have been replaced with ‘iwi’. This is to provide a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.</p> <p><b>Q+A</b></p> <p><i>Is 25 years too long for a review?</i></p> <p><i>25 years, or a generational review, supports an adaptive management approach. The 25-year period enables sufficient time for changes in biodiversity and ecosystem health to occur.</i></p> <p><i>A review can be triggered at any other time if deemed necessary.</i></p> <p><i>DOC are required to report every 5 years on the monitoring and research in the protection areas.</i></p>

Clause	Description
<p><b><u>68A Ministerial review of ring net fishing provisions</u></b></p> <p>(1) <u>In this section, and in section 68B, the ring net fishing provisions are—</u></p> <p>(a) <u>section 19A; and</u></p> <p>(b) <u>section 67, and any secondary legislation made under that section.</u></p> <p>(2) <u>The Minister must, in consultation with the Minister responsible for administration of the Fisheries Act 1996, initiate a review of the operation of the ring net fishing provisions before the expiry of 3 years from the commencement of this Act.</u></p> <p>(3) <u>The review must—</u></p> <p>(a) <u>assess—</u></p> <p>(i) <u>the costs and benefits of the ring net fishing provisions and, to the extent practicable, the fishing undertaken in reliance on those provisions; and</u></p> <p>(ii) <u>the effect of the ring net fishing provisions on the relevant high protection areas and any biodiversity objectives for those areas; and</u></p> <p>(b) <u>recommend whether the ring net fishing provisions should be—</u></p> <p>(i) <u>retained; or</u></p>	<p>This clause requires a Ministerial review of the ring net fishing provisions to be initiated before the expiry of 3 years from commencement of the Act, and completion of the review within 1 year of the review being initiated.</p> <p>The outcome of the review must recommend that the ring net provisions are either retained, amended, or repealed. The Minister of Conservation and the Minister for Oceans and Fisheries must jointly make recommendations.</p> <p>Subsequent reviews can be initiated at any time following initial review</p> <p><b>AP changes – substantive</b></p> <p>This clause has been added to provide for a 3-year review of the ring net fishing provisions</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

Clause	Description
<p>(ii) <u>amended; or</u></p> <p>(iii) <u>repealed.</u></p> <p>(4) <u>The Minister’s recommendation under <b>subsection (3)(b)</b> must be made—</u></p> <p>(a) <u>jointly with the Minister responsible for administration of the Fisheries Act 1996; and</u></p> <p>(b) <u>within 1 year of the initiation of the review under subsection (2).</u></p> <p>(5) <u>The Minister must ensure that, as part of the review, there is reasonable opportunity for interested persons (including Te Ohu Kai Moana) to make submissions on the operation of the ring net fishing provisions.</u></p> <p>(6) <u>The Minister may, jointly with the Minister responsible for administration of the Fisheries Act 1996, initiate 1 or more subsequent reviews of the operation of the ring net fishing provisions at any time after the conclusion of the review initiated under subsection (2).</u></p> <p>(7) <u>Subsections (3) to (5) apply, with all necessary modifications, to a subsequent review initiated under subsection (6).</u></p> <p>(8) <u>In this section, Te Ohu Kai Moana has the same meaning as in section 5(1) of the Maori Fisheries Act 2004.</u></p>	

Clause	Description
<p><b>68B Order in Council repealing ring net fishing provisions</b></p> <p>(1) <a href="#">The Governor-General may, by Order in Council made on recommendation of the Minister, repeal the ring net fishing provisions.</a></p> <p>(2) <a href="#">The Minister must not make a recommendation under subsection (1) unless—</a></p> <p style="padding-left: 20px;">(a) <a href="#">the ring net fishing provisions have been reviewed in accordance with section 68A; and</a></p> <p style="padding-left: 20px;">(b) <a href="#">the Minister has considered the recommendation presented to the Minister under that review.</a></p> <p>(3) <a href="#">An order that repeals the ring net fishing provisions may repeal the following sections consequentially:</a></p> <p style="padding-left: 20px;">(a) <a href="#">section 68A;</a></p> <p style="padding-left: 20px;">(b) <a href="#">this section.</a></p> <p>(4) <a href="#">An order made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</a></p>	<p>This clause provides for repealing the ring net fishing provisions, by an Order in Council, in response to the 3-year review.</p> <p><b>AP changes – substantive</b></p> <p>This clause provides for repeal of the ring net fishing provisions in response to the 3-year review.</p> <p><b>Q+A – provided for in other Committee of the Whole supporting material</b></p>

*Consequential amendments cl69*

Clause	Description
<p><b>69. Consequential amendments</b></p> <p>Amend the legislation specified in Schedule 5 as set out in that schedule.</p>	<p>This clause outlines which changes will be made to other legislation as a result of this Bill.</p>

<b>Part 1 Amendments to Acts</b>	
<p><b>Crown Minerals Act 1991 (1991 No 70)</b> In Schedule 4, after item 14, insert:</p> <ol style="list-style-type: none"> <li>1. All high protection areas declared by <b>section 17</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>.</li> <li>2. All seafloor protection areas declared by <b>section 13</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>.</li> </ol>	<p>This clause adds high protection areas and seafloor protection areas to the list of 'Land to which access restrictions apply'. Marine reserves are currently in this schedule.</p> <p>As this Bill prohibits mining activity in these areas, it is appropriate that they are included in schedule 4 of the Crown Minerals Act.</p>
<p><b>Environment Act 1986 (1986 No 127)</b> In the Schedule, insert in its appropriate alphabetical order:</p> <p>Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b></p>	<p>The Environment Act provides for the Parliamentary Commissioner of Environment to have powers in relation to consents/permits – which would include permits under this Bill if listed in the schedule. These powers include the Commissioner's rights in proceedings (invoking the action of a court) relating to consents, such as calling evidence and examining witnesses.</p> <p>Inclusion in the schedule of the Environment Act also provides the Ministry for the Environment with the function to provide advice on the application, operation, and effectiveness of the Bill in relation to the achievement of the objectives of the Environment Act.</p> <p>Acts already included in the schedule include, the Marine Reserves Act, the Conservation Act, the National Parks Act, the Fisheries Act etc.</p>
<p><b>Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72)</b></p>	<p>This will establish the marine protection areas under this Bill as 'marine management regimes' for the purposes of the EEZ Act. These areas must then be given consideration</p>

<p>After section 7(2)(g), insert:</p> <p>Hauraki Gulf / Tīkapa Moana Marine Protection Act 2023:</p>	<p>when regulations are made under the EEZ Act. For example, when making regulations prescribing standards, methods, or requirements, the Minister must take into account the nature and effect of other marine management regimes.</p> <p>This will apply to the marine reserves and high protection areas/seafloor protection areas established under this Bill.</p> <p>Other Acts included in section 7(2)(g) are the Fiordland Marine Management Act, Kaikōura Marine Management Act, Marine Reserves Act, Marine Mammals Act, RMA etc.</p>
<p><b>Hauraki Gulf Marine Park Act 2000 (2000 No 1)</b></p> <p>After section 33(2)(h), insert:</p> <p>(i) all high protection areas declared by <b>section 17</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>;</p> <p>(j) all seafloor protection areas declared by <b>section 13</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>.</p> <p>In section 37(1), replace “marine reserve,” with “a marine reserve, a high protection area, a seafloor protection area,”.</p> <p>After section 40(a), insert:</p> <p>(aa) remove any seafloor protection area or high protection area from the Park; or</p> <p>In Schedule 1, insert in its appropriate alphabetical order:</p> <p><b>Hauraki Gulf / Tīkapa Moana Marine Protection Act 2023</b></p>	<p>The HGMP Act applies to all areas within the Gulf, this will include the protection areas established under this Bill. As such, the HGMP should reference these areas.</p> <p>Section 33(2) of the HGMP states what areas the Hauraki Gulf Park consists of. high protection areas and seafloor protection areas will be added to the areas.</p> <p>Sections 37(1) specifies that those who administer marine reserves, land etc must recognise and give effect to the purpose of the HGMP Act. high protection areas and seafloor protection areas will be added to the list of areas that must recognise and give effect to the purpose of the HGMP Act.</p> <p>Inclusion of this Bill in the Schedule of the HGMP Act allows for the recognition of the marine protection areas to the overall objectives of the HGMP Act. It also means persons exercising powers under this Bill will need to have</p>

	<p>particular regard to the national significance and the management of the Hauraki Gulf.</p> <p>It is not anticipated this will have any impact on the activities undertaken under this Bill as the Bill already aligns with the purpose of the HGMP Act.</p>
<p><b>Search and Surveillance Act 2012 (2012 No 24)</b></p> <p>In the Schedule, after the item relating to section 50(1) of the Gas Act 1992, insert:</p> <p><b>Search and Surveillance Act 2012 (2012 No 24)—<i>continued</i></b></p>	<p>The schedule of the Search and Surveillance Act (SS Act) lists other Acts to which Part 4 of the SS Act applies (Part 4 is General provisions in relation to search, surveillance, and inspection powers).</p> <p>As this Bill provides rangers with powers relating to enforcement and compliance it is appropriate to be listed in the schedule of the SS Act.</p> <p>This schedule includes reference to the Marine Reserves Act and the Fisheries Act.</p>



<p>(ii) <b>section 51</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>; or</p>	<p>As this Bill includes infringement offences it is appropriate to add this Bill. All other conservation legislation that has an infringement regime is included in this interpretation.</p>
<p><b>Part 2</b></p> <p><b>Amendments to secondary legislation</b></p>	
<p><b>Land Transport (Road User) Rule 2004 (SR 2004/427)</b></p> <p>After rule 8.5(1)(ab)(iii), insert:</p> <p>(iv) a ranger (as defined in <b>section 5</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>) to exercise a power to stop conferred on the ranger under <b>section 38 or 39</b> of that Act; or</p>	<p>Rangers use beacons to indicate to other vessels that the vehicle is operated by a ranger with a power to stop. The Land Transport Act prohibits the use of a beacon with exemptions including under the Marine Reserves Act. Including rangers under this Bill in the Land Transport Act will allow rangers to legally use beacons.</p>
<p><b>Resource Management (Marine Pollution) Regulations 1998 (SR 1998/208)</b></p> <p>After regulation 11(2)(e), insert:</p> <p>(f) more than 200 metres (1.108 nautical miles) from a high protection area declared by <b>section 17</b> of the Hauraki Gulf / Tīkapa Moana Marine Protection Act <b>2023</b>.</p>	<p>This regulation states the distance from a marine area where ships can discharge untreated sewage e.g., must be more than 500m seaward from mean high-water springs and more than 200m from a marine reserve. High protection areas are to be added to regulation 11 to prohibit untreated sewage being discharged within 200m of a high protection area.</p> <p>While seafloor protection areas will not have the same prohibition apply, discharge in a seafloor protection area is still prohibited.</p>

**Attachment B: Committee of the Whole House supporting material**

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# Supporting material for Committee of the Whole House

## Overview

1. At the Committee of the Whole House, the Hauraki Gulf / Tikapa Moana Marine Protection Bill (the Bill) will be considered part by part. This Bill will be considered in the following order:
  - Part 2: Marine reserves, seafloor protection areas, and high protection areas.
    - Schedules 2-4 which contain the area boundaries will be debated at this time but voted on later.
  - Part 3: Permits, enforcement, and regulations for protected areas.
  - Schedules 1-5 (voted on at this stage but not debated).
  - Part 1: Preliminary clauses.
2. You will be presenting two Amendment Papers:
  - Amendment Paper 23438-2/6.0 which outlines the amendments to schedules 2-4 containing the descriptions and indicative maps of the protection areas; and
  - Amendment Paper 23438-1/9.0 which outlines all the amendments to the body of the Bill.

## **Amendment Paper 23438-2/6.0 – amendments to schedules 2-4**

3. Amendment Paper 23438-2/6.0 is not revised-tracked, rather it shows what the schedules will look like. This Amendment Paper replaces the placeholder descriptions in the Bill with references to the Survey Office Plan of the areas and updated indicative maps.
4. There are no significant changes to the protection area boundaries from those in the introduced version of the Bill, only technical changes resulting from the surveying of the areas. We do not anticipate questions regarding the amendments put forward in this Amendment Paper.

## **Amendment Paper 23438-1/9.0 – amendments to the body of the Bill**

5. The rest of this document provides key messages and Q+As on the amendments outlined in Amendment Paper 23438-1/9.0 and general Q+As for each Part of the Bill. Q+As on specific clauses included in the clause-by-clause analysis provided to you separately.
6. The empowering provision for ring net fishing is in Part 2 of the Bill and the regulation-making power and review provisions are in Part 3 of the Bill. As this provision may be debated as a whole, some of the key messages and Q+As related to ring net fishing are repeated in the information for Part 2 and Part 3.
7. The key messages and Q+As reflect previous advice to you and align what you have previously said about the Bill.

## Part 2: Marine reserves, seafloor protection areas and high protection areas (clauses 10-25)

This section provides details of the protection areas including purpose of areas, activities prohibited, exemptions to prohibitions (including for ring net fishing), and functions of the Department.

### Proposed amendments

Amendment	Explanation
<b>Substantive amendments</b>	
Cl 19A: Ring net fishing provision	This clause provides for ring net fishing to occur in two high protection areas given compliance with regulations (clause 67A empowers the making of regulations). This clause also empowers the Director-General of Conservation to authorise the 5 fishers to ring net fish through written authorisation.
<b>Technical / minor amendments</b>	
Cl 14(2)(b), 18(2)(d) & 18(2)(g): Clarification that dumping, depositing, discharge and vibrations are prohibited whether the source of the activity is inside or outside the protection area	Minor change to achieve policy intent – the Bill as currently drafted only prohibits dumping, vibrations etc if the activity occurs <u>inside</u> the protection area. This amendment would mean that dumping, vibrations etc that are sourced outside the protection area that subsequently enter / occur in the area are prohibited.
14(1)(a), 14(2)(b), 18(1)(a) & 18(2)	Amendment to fix grammar or for plain language.
Cl 15(1): Clarification that activities under clauses 20, 21 (activities exempted from prohibitions) and activities with a permit are exempt from additional prohibitions at the Mokohinau Islands SPA	Minor change to correct an error – the Bill as currently drafted fails to reference activities under clauses 20 and 21 and activities with a permit as exempt to additional prohibitions at the Mokohinau Islands SPA. This change will mean that activities under clauses 20 and 21 and activities with a permit can occur in the Mokohinau SPA, even if they conflict with the prohibitions.
Cl 15(1A): Updated reference to the area where additional prohibitions occur	This change references the now-completed Survey Office Plans.
Cl 18(1)(a): Added reference to clause 19A	This amendment reflects that the prohibitions do not apply to ring net fishing provided for in the added clause 19A.
Cl 18(2): Wording changes for prohibited activities	These changes use plain language and avoids nominalisation of verbs.
Cl 19(1)(b): Reference to regulations for customary fishing is removed	This is a consequential amendment to the removal of the Bill's ability to regulate customary fishing.

Cl 21(aaa): Updated reference to customary marine title rights	Minor change to provide more accurate framing of the activities that are exempt.
Cl 21(c): Additional clarity that activities that are prohibited or discretionary under the Resource Management Act are not exempt	This change is for avoidance of doubt that only activities allowed under these regulations are exempt from prohibitions and not those that are discretionary or prohibited.
Cl 21(da) & 21A: Clarity that DOC only has functions (not functions and powers)	Minor change to correct an error – the Bill as currently drafted references the Department’s functions and powers. A Department cannot have powers (the Director-General can have powers).
Cl 21(db): Amendment of term ‘permits’ to ‘approvals’ and ‘Act’ to ‘legislation’	Technical change – the terms ‘permits’ and ‘Act’ were too limited in scope to achieve the policy intent.
Multiple clauses: References to ‘whānau, hapū and iwi’ are replaced with ‘iwi’	Technical change – this amendment provides a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.

## Part 2 Amendment key messages and Q+A’s

### **Key messages – Ring net fishing provision**

- Ring net fishing will be provided for in only two of the 12 HPAs – representing 6% of the area proposed as HPAs, or 3% of the total area protected under this Bill.
- Ring net fishing will be limited and carefully managed through the following conditions provided for in regulations:
  - can only occur in the Kawau Bay High Protection Area and Rangitoto and Motutapu High Protection Area;
  - can only occur between 1 March and 31 August;
  - only kahawai, grey mullet and/or trevally can be targeted;
  - for each fishers, only 1 fishing vessel, that is 6 metres or less, can be used at any one time to take fish;
  - fishers must remain in the vicinity of the ring net while it is in operation;
  - a person undertaking ring net fishing must comply with the Fisheries Act 1996 and any secondary legislation made under that Act; and
  - can only be undertaken by commercial fishers who have fished using ring nets in the two high protection areas in the 2021, 2022, 2023 October fishing years.
- These fishers can continue to supply local communities with low-cost fish.
- This amendment balances the needs of communities, the environment and the economy.
- Due to the limited nature of the provision, this provision will have little impact on the environment beyond the target species.

## **Q+A's – Ring net fishing provision**

### Who will be able to fish in these areas?

- The provision for ring net fishing will be limited to 5 fishers who have ring net fished in one or both areas in the past three years. This provision cannot be shared or handed over to another fisher.
- I am not releasing the names of these fishers to protect their privacy.

### Can the Minister guarantee that all fish caught within these areas will supply local communities?

- Fishers will only be able to target kahawai, trevally and grey mullet species.
- These species are typically of low interest to the export market.
- While we cannot trace where every fish caught will go, we do know that these types of fish are primarily destined for domestic consumption and are more affordable than other protein options.

### Several exemptions were requested through submissions, why did the Minister choose to provide for this exemption and not, for example, for residents at Kawau Island to be able to continue to fish to supply their families?

- I acknowledge that these protection areas will impact on a range of users, including some communities where these areas are in their back yard.
- The provision for ring net fishing will mean that low-cost fish will continue to be available for the community.

### Officials advised that these ring net fishers could continue to fish outside of these areas with minimal impact – so why provide for them to fish in 'high protection areas'?

- This provision balances the needs of communities, the environment and the economy.
- Due to the checks and balances we have put forward, including that boat size must be less than 6 meters and that fishing can only occur in the winter months, the environmental impacts beyond the target species are expected to be limited.

### What is stopping these fishers taking all their catch from these protection areas?

- Due to the Quota Management System under which these fishers operate, it is not practicable to restrict the amount of these fishers allocated catch within the two HPAs.
- There will be a review at three years at which point these provisions will be looked at again.
- DOC will be monitoring these areas carefully.

### If the intention for allowing ring net fishing is to supply marae with fish for cultural purposes, can't this be achieved through the provision for customary non-commercial fishing?

- Yes. However, customary fishing is very limited in nature. This additional provision will allow the wider community to benefit from affordable fish in their day-to-day lives, not just for specific marae events.

Does this clause provide the appropriate conditions to be put on ring net fishing?

- The conditions for ring net fishing were worked through carefully between DOC and Fisheries New Zealand. They represent an appropriate balance of minimising impact to the environment while ensuring that the conditions are not needlessly onerous for ring net fishers.
- Conditions will be included in the regulations that will limit the fishers to operating 1 vessel at a time that is less than 6m. The regulations will also require fishers to remain in the vicinity of the ring net while fishing.
- There will be a three-year review of this provision where conditions can be reconsidered.

**Q+A's – Part 2 general**

What monitoring and research is planned for these areas?

- DOC has been carrying out baseline surveys of the areas looking at fish, kōura, scallops, mussels and habitats.
- DOC will carry out regular monitoring to assess progress towards meeting the purpose of the Bill and any biodiversity objectives. DOC are working alongside Fisheries New Zealand to carry out this monitoring.

How does this Bill address sedimentation?

- This Bill will contribute to the restoration of the health and mauri of the Hauraki Gulf / Tikapa Moana, but it is not a silver bullet.
- The Bill will work alongside a range of initiatives, including addressing causes of land-based sedimentation through regional coastal plans and decisions on resource consent applications.
- The Bill regulates marine-based activities that cause sediments to be resuspended e.g. prohibiting certain fishing methods and regulating construction activities. The Bill also prohibits the discharge of sediments (including from land) into SPAs and HPAs.

How does this Bill address Caulerpa / kina barrens?

Caulerpa

- Marine pests, including Caulerpa, are a significant threat to marine ecosystems – particularly in the Gulf which has high ship traffic.
- What this, and other, marine protection does is create healthier ecosystems with higher resiliency to threats such as marine pests, or climate change impacts.
- Responses to invasive species such as Caulerpa is led primarily out of Biosecurity New Zealand. The Bill provides that any activity carried out under the Biosecurity Act can occur in high protection areas or seafloor protection areas.

Kina barrens

- Removal of fishing within defined areas, such as marine reserves, have allowed for the re-establishment of key predator species tāmure (snapper) and kōura (rock lobster) which

have led to a significant decrease in kina barrens. It can take a number of years before this change is seen.

- Active restoration initiatives, such as targeted kina removals from kina barren habitat, may help increase the rate of habitat and species recovery within newly protected areas. These activities can be permitted under this Bill.
- A blanket exemption to remove kina was not included for HPAs. It is appropriate to permit these activities so that appropriate conditions can be included, such as limiting where kina removal occurs, reporting requirements, and thresholds under which removal must stop.

How can someone determine if an activity will have a 'more than minor' effect?

- The term 'more than minor' is used when an activity is sufficiently broad that total prohibition is not practical eg disturbance of aquatic life which could include going for a swim in the ocean.
- The decision on whether an activity is 'more than minor' will be at the discretion of compliance staff. DOC and Fisheries New Zealand compliance staff have guidelines and training that ensures consistency and a practical approach on enforcement decision making. Prosecution would only occur where it is in the public interest to do so.
- It is not possible to set exact lines of what is minor or not minor, these will always need to be determined in relation to the facts of the case.
- This term is used in other legislation (eg Crown Pastoral Land Act 1998) and in outputs from the RMA (eg National Policy Statements).

Why does the Bill regulate activities that are already regulated by the RMA?

- The RMA regulates activities such as discharges and dumping. The regulation of these activities is stricter in this Bill than under the RMA and reflect the purpose of the Bill.

The Minister for Oceans and Fisheries recently announced that all take of kōura will be banned in the Hauraki Gulf for the next three years – does this reduce the need for the marine protection proposed under this Bill?

- Feedback on this proposal demonstrates how invested people are to the restoration of the health and mauri of the Gulf and I welcome the recent announcement.
- I believe that these initiatives will complement each other, leading to an overall increase of kōura in the Gulf for years to come. This in turn will help to manage kina barrens as kina are a food source for kōura.

## Part 3: Permits, enforcement, and regulations for protected areas (clauses 26-69)

This section provides details on the permitting regime, monitoring and enforcement, offences, regulations (including for ring net fishing), and reviews (three-year review of ring net fishing and 25-year review).

### Proposed amendments

Amendment	Explanation
<b>Substantive amendments</b>	
Cl 66: The ability for customary non-commercial fishing to be regulated under the Bill is removed	This provides for customary non-commercial fishing to occur in HPAs as regulated under the Fisheries Act. This change means that customary non-commercial fishing does not need to align with the biodiversity objectives.
Cl 66(2)(a): The requirement for the Minister to consult with the Minister for Oceans and Fisheries on biodiversity objectives is removed  And  Cl 66(2)(b)(i): The requirement for collaborative development of biodiversity objectives with mana moana is amended to consultation	These are consequential amendments to the change outlined above. Subject to the change above, biodiversity objectives will have a much lower impact on customary non-commercial fishing. Therefore, it is not necessary for a collaborative approach to developing biodiversity objectives (which is a resource-intensive approach). Consultation with mana moana will still occur. It is also not necessary for the Minister for Oceans and Fisheries to be consulted.
Cl 67: Removal of this clause	This is a consequential amendment to the change in how customary non-commercial fishing is regulated in the Bill. This clause is redundant in light of changes to clause 66.
New Cl 67: Addition of regulation making power for ring net fishing	This clause provides for regulations to be developed to regulate ring net fishing.
Cl 68A: Addition of review clause for ring net fishing	This clause provides for a three-year review of the ring net fishing provisions.
Cl 68B: Addition of power to use an Order in Council to repeal ring net fishing provisions	This clause provides for the ring net fishing provision to be repealed in response to the three-year review.
<b>Technical / minor amendments</b>	
Cl 28: Removal of power to develop cost-recovery regulations for when the Director-General seeks further information on a permit application	Technical change – Cost recovery for this action is provided for under cl60A-D of the Conservation Act therefore a regulation making power is not needed.
CL 38: Amendment of term ‘Act’ to ‘legislation’	Technical change – the term ‘Act’ was too limited in scope to achieve the policy intent.

Cl 39: Requirement for ‘the presence of the person’ has been removed for entry and search powers to be exercised	Technical change – the Bill as currently drafted could be interpreted to require the presence of a person (who has/is committing an offence) for entry and search powers to be exercised. This is an outdated provision and there are multiple situations where this is not practical e.g. if the person doesn’t want to be present or if it is an incorporated body.
CL 41: Community-based sentences are included for offences	Minor change to correct an error – the ability to impose community-based sentences for offences was agreed to by Cabinet but had previously been omitted from the Bill.
Multiple clauses: References to ‘whānau, hapū and iwi’ are replaced with ‘iwi’	Technical change – this amendment provides a more practical threshold when it comes to engagement and consideration of rights and interests of Māori.
Cl 30(3)(b), 32, 59(1)(d), 59(2)(b), 62(3)(c), 64(2)	Amendment to fix grammar or for preferred wording.

### **Part 3 Amendment key messages and Q+As**

#### ***Key messages – customary non-commercial fishing***

- This Bill has a dual purpose – to establish marine protection areas and to acknowledge customary rights.
- Customary non-commercial fishing rights are guaranteed under te Tiriti o Waitangi.
- The Bill will stipulate that customary non-commercial fishing that uses bottom trawling, Danish seining or dredging cannot occur. It is unlikely that these methods would be used for customary non-commercial fishing so unlikely to impact on the exercise of these rights. This is for avoidance of doubt that these higher-impact fishing methods are not used in these protection areas.
- I do not consider it appropriate for these rights to be further curtailed by biodiversity objectives under this Bill.
- Customary non-commercial fishing in these areas will be regulated under the Fisheries Act – this means only fishing that has been authorised by a tangata kaitiaki can occur and must be for a customary purpose e.g. hui or tangi.
- Due to the limited nature of the customary non-commercial fishing, I do not expect any significant impact on biodiversity.

#### ***Q+As – customary non-commercial fishing***

##### *Why remove the provision for the Bill to regulate customary non-commercial fishing to align with biodiversity objectives?*

- Customary non-commercial rights are guaranteed under te Tiriti o Waitangi and are regulated under the Fisheries Act. This means that only fishing that has been authorised by a tangata kaitiaki can occur and it must be for a customary purpose e.g. hui or tangi.

- I do not consider it appropriate for these rights to be further regulated by this Bill.

Can the Minister guarantee that customary fishing will not impact on the biodiversity outcomes of these areas?

- Mana moana are kaitiaki of these areas. We have consistently heard from mana moana that they wish to continue to carry out their customary practices in these areas in a way that cares for the moana.
- I do not expect customary non-commercial fishing to have a significant impact on biodiversity.

Mana moana have been supportive of the process for co-development of biodiversity objectives. Why has this requirement been reduced to consultation?

- With the proposed amendments to the Bill, the biodiversity objectives will no longer impact on the exercise of customary non-commercial fishing. As such, the requirement for a resource-intensive collaborative approach is not necessary.
- Mana moana will be consulted on the development of biodiversity objectives.

Why was clause 67 'regulations for additional management actions in high protection areas' removed?

- With the changes to the Bill, clauses 66 and 67 become very similar. Where further regulation of an activity is required to give effect to biodiversity objectives, this can be done under clause 66.

### **Key messages – Ring net fishing provision**

- Ring net fishing will be provided for in only two of the 12 HPAs – representing 6% of the area proposed as HPAs or 3% of the total area protected under this Bill.
- Ring net fishing will be limited and carefully managed through the following conditions provided for in regulations:
  - can only occur in the Kawau Bay High Protection Area and Rangitoto and Motutapu High Protection Area;
  - can only occur between 1 March and 31 August;
  - only kahawai, grey mullet and/or trevally can be targeted;
  - for each fishers, only 1 fishing vessel, that is 6 metres or less, can be used at any one time to take fish;
  - fishers must remain in the vicinity of the ring net while it is in operation;
  - a person undertaking ring net fishing must comply with the Fisheries Act 1996 and any secondary legislation made under that Act; and
  - can only be undertaken by commercial fishers who have fished using ring nets in the two high protection areas in the 2021, 2022, 2023 October fishing years.
- These fishers can continue to supply local communities with low-cost fish.
- This amendment balances the needs of communities, the environment and the economy.
- Due to the limited nature of the provision, this provision will have little impact on the environment beyond the target species.

## **Q+As – Ring net fishing provision**

### Who will be able to fish in these areas?

- The provision for ring net fishing will be limited to 5 fishers who have ring net fished in one or both areas in the past three years. This provision cannot be shared or handed over to another fisher.
- I am not releasing the names of these fishers to protect their privacy.

### Can the Minister guarantee that all fish caught within these areas will supply local communities?

- Fishers will only be able to target kahawai, trevally and grey mullet species.
- These species are typically of low interest to the export market.
- While we cannot trace where every fish caught will go, we do know that these types of fish are primarily destined for domestic consumption and are more affordable than other protein options.

### Several exemptions were requested through submissions, why did the Minister choose to provide for this exemption and not, for example, for residents at Kawau Island to be able to continue to fish to supply their families?

- I acknowledge that these protection areas will impact on a range of users, including some communities where these areas are in their back yard.
- The provision for ring net fishing will mean that low-cost fish will continue to be available for the community.

### Officials advised that these ring net fishers could continue to fish outside of these areas with minimal impact – so why provide for them to fish in ‘high protection areas’?

- This provision balances the needs of communities, the environment and the economy.
- Due to the checks and balances we have put forward, including that boat size must be less than 6 meters and that fishing can only occur in the winter months, the environmental impacts beyond the target species are expected to be limited.

### What is stopping these fishers taking all their catch from these protection areas?

- Due to the Quota Management System under which these fishers operate, it is not practicable to restrict the amount of these fishers allocated catch within the two HPAs.
- There will be a review at three years at which point these provisions will be looked at again.
- DOC will be monitoring these areas carefully.

### If the intention for allowing ring net fishing is to supply marae with fish for cultural purposes, can't this be achieved through the provision for customary non-commercial fishing?

- Yes. However, customary fishing is very limited in nature. This additional provision will allow the wider community to benefit from affordable fish in their day-to-day lives, not just for specific marae events.

Does this clause provide the appropriate conditions to be put on ring net fishing?

- The conditions for ring net fishing were worked through carefully between DOC and FNZ. They represent an appropriate balance of minimising impact to the environment while ensuring that the conditions are not needlessly onerous for ring net fishers.
- Conditions will be included in the regulations that will limit the fishers to operating 1 vessel at a time that is less than 6m. The regulations will also require fishers to remain in the vicinity of the ring net while fishing.
- There will be a three-year review of this provision where conditions can be reconsidered.

REVIEW CLAUSE (68A): Why are decisions on the review made jointly between the Minister of Conservation and Minister for Oceans and Fisheries?

- This is a matter that concerns both conservation and commercial fisheries, so it makes sense that both ministers are involved.

REVIEW CLAUSE (68A): If a decision is made to ban ring net fishing in three years, is that the end of commercial fishing being provided for in HPAs?

- This will depend on the outcome of the review. The provision could be repealed from the legislation or ring net fishing prohibited until a further review is carried out.

REVIEW CLAUSE (68A): Will the public and eNGOS have an opportunity to comment or submit on the review?

- Yes.

REVIEW CLAUSE (68A): Why must the recommendation for repealing the ring net fishing provisions be consistent with recommendations from the review?

- The intention of this clause is to give effect to the review, it is not intended to allow for changes to the ring net provisions out of cycle with the review.

REVIEW CLAUSE (68B): Why does clause 68B only allow for the repeal of ring net fishing and not the amendment?

- This clause does not provide for amending the clauses as any reduction in scope of the provisions can be actioned through the regulations, and any expansion in scope is more appropriately actioned through an amendment to the Act.

**Q+As – Part 3 general**

How will compliance and enforcement be carried out?

- HPAs and SPAs are a novel legal concept. We need to educate the 2 million residents who live around the Gulf and the millions of visitors who visit it every year.
- Compliance will gradually build to support the educative focus, with both on-the-water patrols and the use of shoreline technology.
- DOC will be collaborating closely with Fisheries NZ, Auckland Council, Waikato Regional Council, and other partners.

- DOC will be collaborating closely with Fisheries NZ on compliance of ring net fishing in the two HPAs where it will be provided for.
- Approximately \$2.5M per year is allocated to compliance and monitoring which will provide for 6 new full-time rangers. There will be additional seasonal staff in the summer.

Why doesn't the offences regime differentiate between different activities for fines, or between infringement or criminal offences?

- This is on purpose.
- The offences in this Bill are very broad eg discharging in an HPA could occur on a broad spectrum of severity depending on what was being discharged and how much.
- To try and provide for all scenarios in legislation would be untenable.
- This is a commonly used approach in legislation.
- DOC has robust systems in place for compliance staff to aid decision-making.

Why does clause 66 provide for the setting of additional restrictions in HPAs and not SPAs?

- SPAs are designed to protect the seafloor by prohibiting activities that have the highest impact on the seafloor while allowing for a broad range of activities.
- HPAs are designed to provide a much higher level of protection. These additional regulations provide the opportunity for area-specific restrictions to be in place, e.g. additional anchoring regulation at Slipper Island in the areas of seagrass meadows.

What are the biodiversity objectives? Who will develop these?

- Biodiversity objectives are developed by DOC in consultation with mana moana and any other relevant parties.
- The application of the biodiversity objectives is outlined in clauses 5A and 5B and include that they are considered when assessing permit applications and for making regulations to give effect to the objectives.

## Part 1: Preliminary provisions (clauses 1-9)

This section provides the preliminary provisions including purpose, Te Tiriti o Waitangi clause, interpretation / definition, overview of biodiversity objectives, and application of other enactments.

### Proposed amendments

Amendment	Explanation
<b>Substantive amendments</b>	
Cl 4(2): Addition of 'signposting provisions' to te Tiriti o Waitangi clause	This amendment provides greater clarity of how te Tiriti o Waitangi is given effect to in the Bill.
Cl 8A: Addition of clause outlining obligations to Treaty settlements	This amendment ensures that all Treaty settlements are upheld.
Cl 9A: Removal of the 'no compensation clause'	This clause is removed so that the Bill does not state there is no entitlement to compensation of potentially affected parties.
<b>Technical / minor amendments</b>	
Cl 5: Additional definitions added.	Definitions of the following were added: <ul style="list-style-type: none"> <li>• commercial fisher</li> <li>• department</li> <li>• grey mullet</li> <li>• kahawai</li> <li>• Minister</li> <li>• purse seine net or lampara net</li> <li>• ring net</li> <li>• ring net fishing</li> <li>• Treaty settlement</li> <li>• Treaty settlement Act</li> <li>• Treaty settlement deed</li> <li>• trevally</li> </ul>
Cl 5B: Reference to regulations for customary fishing is removed	This is a consequential amendment to the removal of the Bill's ability to regulate customary fishing.

### Part 1 Amendment key messages and Q+As

#### Key messages – Te Tiriti o Waitangi

- The te Tiriti o Waitangi clause in this Bill mirrors the Conservation Act which has one of the strongest te Tiriti o Waitangi clauses in legislation.
- The application of te Tiriti o Waitangi clause in the Conservation Act is a key focus for DOC and is informed by case law. This application will apply to this Bill also.
- The clause has been updated to reference 'te Tiriti' and the Treaty.
- The updated clause provides greater clarity and specificity about how te Tiriti o Waitangi obligations are engaged by the Bill.

## **Q+As – Te Tiriti o Waitangi**

Why include a te Tiriti o Waitangi clause that will automatically be in scope of the review of legislative references to the principles of the Treaty of Waitangi?

- I acknowledge that the review into te Tiriti o Waitangi clauses is underway. I don't consider it appropriate to anticipate the findings of that review by making more substantive changes at this time, particularly when this would be out of step with other conservation legislation.

### **Key messages – no compensation clause**

- A 'no compensation' clause was inserted into the Bill at the Select Committee stage.
- This clause was for the avoidance of doubt and to align with existing approaches to not compensate for conservation or sustainability measures.
- Compensation would likely not be available to fishers as the marine protection would not involve the taking of a property rights (although it may have an impact on the exercise of those rights).
- The Kermadec Ocean Sanctuary Bill included a 'no compensation' clause which attracted significant opposition. However, the Kermadec Bill would have resulted in no-take marine protection across an entire quota management area, whereas this Bill would result in a small proportion of a quota management area being no-take.

### **Q+As – no compensation clause**

If you do not think compensation will be available to fishers – why remove this clause?

- This clause was included for the avoidance of doubt and therefore not necessary.

Does this create a precedent for providing compensation in protection areas?

- No. Consideration of whether a compensation clause should be included in possible future legislation enabling protection areas will be considered on a case-by-case basis in light of the relevant circumstances.

### **Q+As – Part 1 general**

No overarching questions expected for this part. Questions related to specific clauses are included in the clause-by-clause analysis.

**Attachment C: Draft press release**

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## **“Historic” legislation passed to nearly triple protection for Hauraki Gulf/Tīkapa Moana**

Legislation passed today will enhance the health and mauri of Hauraki Gulf/Tīkapa Moana/ Te Moananui o Toi for generations to come, Conservation Minister Tama Potaka says.

“It’s historic. The Hauraki Gulf/Tīkapa Moana Act is Aotearoa’s most significant increase in marine protection in over a decade.”

The Act will nearly triple the amount of protection in the Gulf, bringing in 19 new protection areas.

“We are adding 1,586km<sup>2</sup>, that’s twice the size of Singapore or over a quarter of a million rugby fields of new protection.”

“The Act is the culmination of a process that began in 2013 with the Sea Change Project. I acknowledge the many years of mahi that have got us to this point.”

The newly protected areas range from the waters surrounding the Mokohīnau Islands in the North to the Aldermen Islands in the Coromandel and critical habitats closer to New Zealand’s biggest city.

The nature of the Hauraki Gulf is incredibly unique and is home to wildlife not found anywhere else in the world. For some, like our most endangered bird, the tara iti, this is one of their last remaining habitats.

“The Gulf is a place that many have a deep connection to, including myself, and it is the most popular fishing and boating area in the country. It is home to many precious habitats, including biologically important kelp forests, dog cockle beds and fragile coral. One-third of all seabirds that breed in Aotearoa nest in the Gulf.”

“The Act is about ensuring we protect this taonga for future generations. We want to bring back more fish, more variety, more biodiversity to restore the health and mauri of the Gulf and improve fishing over time.”

The world’s first marine reserve, Goat Island / Te Hāwera a Maki (Cape Rodney – Ōkakarī Point) celebrates its 50<sup>th</sup> anniversary this year. This marine reserve will be more than tripled as part of the Hauraki Gulf/Tīkapa Moana Act.

“We know marine protection works and Goat Island is an exceptional example. It is home to one of the most diverse marine habitats in the country and is an educational, scientific and tourism hub with 350,000 visitors per year. It also pumps out ten times more snapper than any comparable bit of coast in the Gulf.”

The Act supports the delivery of the Government’s goals to rebuild the economy while protecting our precious biodiversity.

“The beauty of the Gulf is a catalyst for local economies through tourism, recreation and fishing. The NZ Institute of Economic Research recently estimated its economic value at \$100 billion.

“Overall, the legislation ensures we balance the needs of communities, the environment and the economy.”

"Limited ring-net fishing will continue for a small number of fishers in protected areas who supply local communities. This will be reviewed after three years"

The new legislation will come into place from [placeholder date].

The Department of Conservation (DOC) will lead the changes and educate the public on the new rules.

"A new team of DOC Marine Rangers are out on the water as we speak. They will be educating the public, ensuring compliance, and monitoring the effectiveness of the changes."

## **Revitalising the Gulf – By the numbers**

**[placeholder date]** – New legislation in place to restore the health of the Gulf for future generations.

**#1** – Most significant increase in marine protection in Aotearoa in over a decade.

**19** – New protected areas, including 12 new high protection areas, five seafloor protected areas, and two marine reserve extensions.

**1586km<sup>2</sup>** – Of new protection, that's twice the size of Singapore or over a quarter of a million rugby fields.

**1/3** – Of New Zealand's seabirds nest in Hauraki Gulf/Tīkapa Moana

**100 billion** – The economic value placed on the Hauraki Gulf by the NZ Institute of Economic Research.

**50 years** – Since Goat Island, NZ's first marine protected area was introduced. It is an exceptional example of what marine protection can achieve. It supports one of the most diverse marine habitats in the country and is an educational, scientific, and tourism hub.

**350,000** – Visitors annually to Goat Island marine reserve, one of the ten most visited natural heritage sights in the country.

**14** – New staff, including marine rangers and researchers to resource DOC to implement and monitor the new marine protected areas, and educate the public.

**Attachment D: Notes for a third reading speech**

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### Third reading speech key points: Hauraki Gulf Tīkapa Moana Marine Protection Bill

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- I move that the Hauraki Gulf / Tīkapa Moana Marine Protection Bill now be read a third time.
- The purpose of this bill is to contribute to the restoration of the health and mauri of the Hauraki Gulf / Tīkapa Moana, Te Moananui-a-Toi and to acknowledge customary rights within seafloor protection areas and high protection areas. It provides modern marine protection tools that reflect the needs of both the environment and people.
- Tīkapa Moana is a very special place, with enormous significance to the nearly 2 million people living in Tāmaki Makaurau and Te Tara-o-te-Ika, and the millions more who visit every year. It has sustained mana whenua for centuries, and provides economic value through tourism and fishing – a recent assessment put the value of the Gulf at 100 billion dollars. Its waters and coastal areas are home to many species of fish, coral, kelp, and seabirds, as well as being visited by leatherback turtles, manta rays and humpback whales.
- Unfortunately, the Gulf is in trouble – increased pressures from pollution, climate change and invasive species like *Caulerpa* are putting this taonga at risk. Action is needed now to protect the Gulf and make sure future generations can benefit from it as we do.
- The 19 marine protection areas that created through this bill have been carefully designed to cover a wide range of habitats. This will help to achieve the greatest biodiversity gains while ensuring that there is still plenty of space in the Gulf for people to do activities that are important to them like recreational or commercial fishing.
- It will increase protection to iconic locations like Goat Island, Mautohe / Cathedral Cove, and Te Hauturu-o-Toi / Little Barrier Island.
- [placeholder here to recap any changes that occurred at Committee of the Whole]
- This bill represents the culmination of more than a decade of mahi. I want to take this opportunity to once more acknowledge and thank the many people who had a role in shaping the bill, starting from the Sea Change Plan in 2013, all the way through to Committee of the Whole House.
- Mana whenua in and around Tīkapa Moana have been extremely generous with their time and advice – Ngāti Paoa Iwi Trust, Ngāti Paoa Trust Board, Ngāti Tara Tokanui, Ngāti Tamaterā, Ngāti Maru, Ngāti Porou ki Hauraki, Te Patukirikiri, Ngāi Tai ki Tāmaki, Ngāti Rehua-Ngātiwai Ki Aotea, Te Kawerau a Maki, Ngāti Hei, Ngāti Manuhiri, Ngātiwai, Te Uri o Hau, Ngāti Rongo o Mahurangi, Ngāti Paoa ki Waiheke, and Ngāti Whātua Ōrākei. Ngā mihi ki a koutou. Thank you also to Te Ohu Kaimoana and the Hauraki Trust Board who provided feedback on the bill.
- Others who have worked on the bill or provided invaluable feedback include local government, fishing industry representatives, ENGOS, scientists, and the many members of the public who made submissions to the select committee, as well as central government and members on both sides of this House. I acknowledge and appreciate your contributions.
- I am delighted to commend this bill to the House.