



Briefing: Hauraki Gulf / Tīkapa Moana Marine Protection Bill – final matters for Amendment Paper

To	Minister of Conservation	Date submitted	19 February 2025
Action sought	Approvals on further matters relating to ring net fishing and to note updated timeframes	Priority	High
Reference	25-B-0049	DocCM	DOC-7877530
Security Level	In Confidence		

Risk Assessment	Low Any delays to decisions in this paper may delay commencement of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill.	Timeframe	26 February 2025 Decisions by this date will allow for the Parliamentary Counsel Office to incorporate necessary changes to the legislation to meet timeframe of Committee of the Whole House 8-10 April 2025.
Attachments	No attachments		

Contacts	
Name and position	Phone
Siân Roguski, Director Policy (Biodiversity, International and Funding)	9(2)(a) [REDACTED]
Ruth Isaac, Deputy Director-General Policy and Regulatory Services	9(2)(a) [REDACTED]

Executive summary – Whakarāpopoto ā kaiwhakahaere

1. On 30 September 2024, Cabinet approved amendments to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) to be considered through an Amendment Paper at the Committee of the Whole House [CAB-24-MIN-0386 refers]. The amendments include the provision for limited ring net fishing in two high protection areas (HPAs). In consultation with the Minister for Oceans and Fisheries, you made further policy decisions regarding the provision for ring net fishing [24-B-0501 refers].
2. The policy decisions for ring net fishing would preserve the ability for 5 ring net fishers to fish in two HPAs with specific conditions. This provision will be reviewed by the Minister of Conservation and Minister for Oceans and Fisheries after 3 years, taking into account the costs and benefits of the provision. The review could result in the retention, amendment, or repeal of the provision.
3. We seek your further decision on how to identify the ring net fishers in the supporting regulations. The options for identifying ring net fishers are:
 - Option 1 (DOC preferred): fishers are identified in regulations by reference to their fisheries client number
 - Option 2 (Fisheries New Zealand preferred): fishers are identified by receiving a letter from the Director-General of DOC (DG) confirming that that the provision applies to them.
4. On 12 February, you attended a meeting with the Prime Minister, other Ministers and eNGOs. At this meeting, a sunset clause for ring net fishing was discussed and further advice requested on options. The options are:
 - Option 1 (status quo): ring net fishing is provided for with a 3-year review (at which point the provision can be retained, amended or repealed)
 - Option 2: ring net fishing is provided for with a 1-year sunset clause
 - Option 3: ring net fishing is provided for with a 3-year sunset clause.
5. We seek your decision on a sunset clause for ring net fishing.

Next steps and timing

6. We recommend that the progression of the Bill is delayed by two weeks to include reference to completed Cadastral survey plans which are expected to be complete mid-March. This will mean that no additional regulatory processes are required to incorporate these plans into the Bill.
7. Pending your decisions in this paper, final drafting instructions will be sent to the Parliamentary Counsel Office. On 12 March 2025, you will receive a further briefing that includes a Cabinet paper, Amendment paper, and regulations for ministerial consultation. On this timeline, the Bill could be considered at the Committee of the Whole House 8-10 April 2025.

We recommend that you ... (Ngā tohutohu)

		Decision
1.	EITHER i) Ring net fishers are identified in legislation by reference to their fisheries client number in regulations (DOC preferred) OR	Yes / No Yes / No

	ii) Ring net fishers are identified in legislation by receiving a letter from the Director-General of DOC (DG) confirming that the provision applies to them (Fisheries New Zealand preferred)	
2.	EITHER i) Do not introduce a sunset clause; ring net fishing is provided for with a 3-year review (status quo) OR introduce a sunset clause by ii) Either ring net fishing is provided for with a 1-year sunset clause iii) Or ring net fishing is provided for with a 3-year sunset clause	Yes / No Yes / No Yes / No
3.	Agree to delay the progression of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill by two weeks to include reference to complete Cadastral survey plans	Yes / No
4.	Note that the updated timeline means the Hauraki Gulf / Tīkapa Moana Marine Protection Bill can be considered at the Committee of the Whole House 8-10 April 2025 at the earliest	
5.	Agree to share this paper with the Minister for Oceans and Fisheries for discussion	Yes / No

9(2)(a)

Date: 19/02/2025

Date: / /

Ruth Isaac
Deputy Director-General, Policy and
Regulatory Services

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

- To seek:
 - your decision on how ring net fishers are identified;
 - your decision on whether to include a sunset clause for the ring net fishing provision; and
 - your approval to delay progression of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) by two weeks to allow for inclusion of finalised cadastral survey plans.
- To update you on the next steps for progressing the Bill.

Background and context – Te horopaki

- On 30 September 2024, Cabinet approved amendments to the Bill to be progressed through an Amendment Paper. The amendments include the removal of the ability to regulate customary non-commercial fishing beyond existing regulations under the

Fisheries Act 1996, to provide for limited ring net fishing in two high protection areas (HPAs), and other technical changes [CAB-24-MIN-0386 refers].

4. Cabinet authorised you to make subsequent policy decisions, in consultation with the Minister for Oceans and Fisheries, on conditions for ring net fishing and the nature of a three-year review [24-B-0501 refers].
5. The policy decisions for ring net fishing would preserve the ability for 5 ring net fishers to fish in two HPAs with specific conditions. These conditions include limiting timeframes when fishing can occur, limiting what species can be targeted, and that these rights cannot be 'traded' with other fishers. This provision will be reviewed by the Minister of Conservation and Minister for Oceans and Fisheries after 3 years, taking into account the costs and benefits of the provision. The review could result in the retention, amendment, or repeal of the provision.
6. DOC have been working with Fisheries New Zealand (FNZ) officials and the Parliamentary Counsel Office (PCO) to draft an Amendment Paper that gives effect to these policy decisions. We seek your decision on how to identify the ring net fishers.
7. Following your decision, updated drafting instructions will be sent to PCO. We will provide you with a Cabinet paper, Amendment Paper and regulations on 12 March 2025 which will allow for the Bill to be considered at Committee of the Whole House 8-10 April 2025 (see timeline below).

Identifying ring net fishers in legislation

8. You were previously advised that while the enabling provision for ring net fishing will sit in the primary legislation, some conditions may be more appropriate in regulations [24-B-0501 refers]. This is so these more operational conditions could be more simply amended if required through the 3-year review process or for technical changes. This approach has been confirmed through the drafting process.
9. The Bill will have the empowering provision for the ring net fishing while the regulations will outline conditions such as:
 - identifying the fishers that the ring net fishing provision applies to;
 - when fishing can occur, i.e. between 1 March and 31 August;
 - what species can be taken, i.e. trevally, grey mullet and kahawai;
 - that each fisher can only operate one vessel at a time, and it must be six metres or less in length; and
 - that fishers must remain in the vicinity of the ring net when it is operating.

Options for identifying ring net fishers

10. The legislation will outline the parameters for whom the ring net provision applies to, i.e. they must have fished in the areas in the previous three fishing years. There must also be a mechanism provided for in the legislation that allows for the 5 ring net fishers that these parameters apply to, to be identified. This is critical for compliance and enforcement activities and to clarify for ring net fishers whether the provision applies to them or not.
11. DOC have considered two options for how these fishers are identified in regulations:
 - Option 1 (DOC preferred): fishers are identified in regulations by reference to their fisheries client number
 - Option 2 (FNZ preferred): fishers are identified by receiving a letter from the Director-General of DOC (DG) confirming that the provision applies to them. The regulations would empower the DG to do this.

not consider it a necessity, and the practical outcome of limiting the exemption to the named fishers can be achieved without through the DG notification process set out in option 2.

21. We seek your decision on which option you would like used in the legislation. We recommend you share this briefing and discuss this matter with the Minister for Oceans and Fisheries.

Sunset clause for ring net fishing

22. On 24 September 2024, you were briefed on options for the ring net fishing provision, including an option for a sunset clause [24-B-0476 refers]. You ultimately decided that the ring net fishing provision would have a review at 3 years, rather than a sunset clause [CAB-24-MIN-0386 refers].
23. On 12 February 2025, you attended a meeting with the Prime Minister, other Ministers and eNGOs. At this meeting the provision for ring net fishing was discussed further and there was an interest amongst Ministers to consider options for including a sunset clause i.e., the provision stops after a determined amount of time.
24. Options for a sunset clause in the Bill include:
- Option 1: ring net fishing is provided for with a 1-year sunset clause
 - Option 2: ring net fishing is provided for with a 3-year sunset clause
25. Under both options, at the end of the determined period, the ring net provision will stop and no commercial ring net fishing can occur in any of the HPAs. Both options are likely to be supported by eNGOs and the public who are opposed to the provision for ring net fishing as it limits the extent to which commercial fishing can occur in HPAs.
26. The 5 ring net fishers are likely to prefer the status quo (i.e. no sunset clause) as it potentially provides for them to ring net for longer. They are unlikely to support a 1-year sunset clause. These fishers have not been consulted on this specific provision.
27. We seek your decision on whether to retain the status quo of a 3-year review clause or proceed with a sunset clause. Following your decision, drafting instructions will be sent to PCO and your preferred option will be incorporated into the Amendment Paper to be considered at the Committee of the Whole House.

Cadastral survey plans

28. Cadastral survey plans are maps that show the legal boundaries and dimensions of an area. Production of cadastral survey plans for the protection areas raised technical mapping and legal issues that needed to be carefully worked through with LINZ. As a consequence, the plans are not completed but are expected to be complete in March and ready for approval by LINZ.
29. We recommend delaying the Bill by two weeks from the timeline most recently provided to your office so that the Bill can reference approved survey plans. This will delay third reading from 27 March 2025 to 10 April 2025. Inclusion of references to approved plans will avoid the need for a further legislative process to add them to the legislation after enactment.
30. This delay has the joint benefit of allowing for feedback from you on the ring net fishing policy matter discussed above.
31. If the plans cannot be completed and approved by LINZ in time to meet this timeframe, we recommend that the Bill is progressed with indicative maps and map descriptions and include an Order in Council provision to replace the descriptions with references to the cadastral survey plans once they are approved and the Bill has commenced.

Risk assessment – Aronga tūraru

32. Ring net fishers have raised concerns about their personal safety if the legislation identifies them through their fisheries client numbers. This risk is mitigated to some extent by having their fisheries client number (rather than their names) included in the regulations. We do not consider this risk to be created or exacerbated by the regulatory design, as the fishers are already identifiable through carrying out ring net fishing activities in the two HPAs regardless of how the regulations are drafted. **9(2)**
[REDACTED]
[REDACTED] DOC will ensure that messaging will emphasise the limited nature of the ring net fishing provision.
33. If you decide to identify fishers by the DG sending letters there will likely be widespread opposition to the lack of transparency. We will prepare associated response material if this is your decision.
34. **19(2)(h)**
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
35. Any delays to the cadastral survey plans will not impact on the timing of progressing the Bill but will create additional regulatory steps.

Treaty principles (section 4) – Ngā mātāpono Tiriti (section 4)

36. There are no te Tiriti o Waitangi considerations for the matters addressed in this paper. More broadly, Te Ohu Kaimoana and some mana moana have previously expressed their opposition to the prohibition of customary commercial fishing in HPAs. The provision for ring net fishing by specific permit holders does not specifically acknowledge customary commercial fishing so may be opposed by these groups.

Consultation – Kōrero whakawhiti

37. FNZ, Seafood New Zealand, the five impacted ring net fishers, PCO and the Ministry for Regulation were consulted on the ring net fishing aspects of the Amendment Paper. Their views are reflected in this briefing.

Financial implications – Te hīraunga pūtea

38. There are no financial implications to the matters addressed in this paper. More broadly the provision for ring net fishing will require additional compliance and monitoring and the three-year review will have resourcing implications for DOC and FNZ. These additional activities will be funded from within agency baselines.

Legal implications – Te hīraunga a ture

39. Your decisions in this paper will be reflected in the Amendment Paper and regulations being drafted by PCO. Pending Cabinet approval, the Amendment Paper will be considered at the Committee of the Whole House and regulations will be submitted to the Executive Council.

Next steps – Ngā tāwhaitanga

40. As per the Cabinet direction, we recommend you consult the Minister for Oceans and Fisheries on the matters in this paper and provide your direction to DOC by 26 February 2025. DOC will then issue final drafting instructions to PCO.
41. On 12 March 2025 DOC will send you a briefing that includes a Cabinet paper, Amendment Paper, and regulations. We recommend you carry out ministerial consultation on the Cabinet paper from 17-24 March 2025. This will allow for the Cabinet paper to be lodged on 27 March 2025, for consideration by LEG Cabinet on 3 April 2025.
42. On this timeframe, the Bill could be considered at the Committee of the Whole House 8-10 April 2025.

Step	Date – previous timeline	Date – updated timeline
MOC decision on identifying ring net fishers	NA	26 February
Final briefing to MOC	21 February	12 March
Ministerial consultation on the Cabinet paper	24 Feb–3 March 2025	17-24 March
Cabinet paper lodged	6 March 2025	27 March
Cabinet paper considered by LEG	13 March 2025	3 April
Cabinet paper considered by Cabinet	17 March 2025	7 April
Amendment Paper submitted to the Clerk of the House	17 March 2025	7 April
Regulations submitted to Executive Council	17 March 2025	7 April
Committee of the Whole House	25–27 March 2025	8-10 April
Third reading	27 March 2025	10 April
Royal Assent	3 April 2025	17 April
Regulations come into force	17 April 2025	5 May

ENDS