



Briefing: Hauraki Gulf / Tīkapa Moana Marine Protection Bill – Cabinet paper

To	Minister of Conservation	Date submitted	20 March 2025
Action sought	Ministerial consultation on the Cabinet paper, Amendment Paper and regulations for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill.	Priority	High
Reference	25-B-0051	DocCM	DOC-10215721
Security Level	In Confidence		

Risk Assessment	Low Any delays to the progression of the Cabinet paper will delay commencement of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill.	Timeframe	25 March 2025 If Ministerial consultation does not begin on this date this may delay consideration of the Amendment Paper at the Committee of the Whole House.
Attachments	Attachment A – Draft Cabinet paper Attachment B – Summary of amendments Attachment C – Supplementary Disclosure Statement Attachment D – Supplementary Analysis Report: Amendments to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill		

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

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. This briefing provides you with a Cabinet paper (Attachment A) for your approval.
2. The following documents will be attached to the Cabinet paper:
 - substantive Amendment Paper incorporating changes agreed to by Cabinet [CAB-24-MIN-0386 refers] and further decisions made by you and the Minister for Oceans and Fisheries [24-B-0501 and 25-B-0049 refer],
 - Amendment Paper for changes to the maps in schedules 2-4 of the Bill,
 - ring net fishing regulations,
 - infringement regulations,
 - Supplementary Disclosure Statement (Attachment C of this briefing),
 - Supplementary Analysis Report (Attachment D of this briefing).
3. We recommend you carry out ministerial consultation on the Cabinet paper from 25-31 March. This will allow for lodgement of the Cabinet paper for Cabinet Legislation Committee (LEG) on 03 April 2025, for consideration on 10 April 2025.
4. The Parliamentary Counsel Office (PCO) have not yet had a chance to incorporate your most recent decisions (i.e., how ring net fishers are identified) into the substantive Amendment Paper or ring net fishing regulations. A near final draft of the substantive Amendment Paper and regulations will be provided to you on Monday 24 March for inclusion in the package for Ministerial consultation.
5. The Amendment Paper for the maps in schedules 2-4 are unlikely to be ready by Monday 24 March for Ministerial consultation due to PCO only recently receiving advice from the House Office that a separate Amendment Paper is required. This will be ready by Thursday 3 April for lodgement of the Cabinet paper. We do not consider that this Amendment Paper is necessary for Ministerial consultation as it represents a technical change and not a policy change.

We recommend that you ... (Ngā tohutohu)

		Decision
a)	Approve the Cabinet paper in Attachment A	Yes / No
b)	Note that the near final versions of the Amendment Paper, ring net fishing regulations and infringement regulations will be sent to you on 24 March for use in ministerial consultation	
c)	Agree to carry out ministerial consultation on the Cabinet paper, associated draft Amendment Paper and regulations from 25-31 March 2025	Yes / No
d)	Note that a separate Amendment Paper to update the maps to align with cadastral survey plans is being drafted by the Parliamentary Counsel Office and will be sent to you as soon as possible	

9(2)(a)

Date: 20/03/2025

Ruth Isaac
DDG Policy and Regulatory Services

Date: / /

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

1. To provide you with the draft Cabinet paper for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) for Ministerial consultation.

Background and context – Te horopaki

2. On 30 September 2024, Cabinet approved a number of amendments to the Bill, to be progressed through an Amendment Paper. This briefing provides you with the draft Cabinet paper (Attachment A) which seeks authorisation for two Amendment Papers to be submitted to the Clerk for consideration at the Committee of the Whole House. The Cabinet paper also seeks authorisation for ring net fishing and infringement regulations to be submitted to the Executive Council.
3. There are now two Amendment Papers (as opposed to one) as the House Office advised the Parliamentary Counsel Office (PCO) that a separate Amendment Paper was required for changes to the maps in schedules 2-4. This is for technical reasons related to how changes can be marked up in an Amendment Paper by the PCO.
4. We recommend you carry out Ministerial consultation on the draft Cabinet paper from 25-31 March 2025. This timeline allows lodgement of the Cabinet paper for Cabinet Legislation Committee (LEG) on 3 April, for consideration on 10 April. This timeframe would allow for consideration of the Bill at Committee of the Whole House in May.
5. Attachments to the Cabinet paper include the two Amendment Papers, ring net fishing regulations, infringement regulations, a Supplementary Disclosure Statement (Attachment C), and a Supplementary Analysis Report (Attachment D).
6. The PCO are currently finalising changes to the substantive Amendment Paper and ring net regulations based on recent decisions on how ring net fishers are identified [25-B-0049]. We will send you the near final version of the substantive Amendment Paper and regulations on Monday 24 March for use in Ministerial consultation.
7. The Amendment Paper for the maps in schedules 2-4 are unlikely to be ready by Monday 24 March for Ministerial consultation. If this Amendment Paper is ready, it will be sent to you alongside the substantive Amendment Paper and regulations on Monday 24 March. It will be finalised for lodgement of the Cabinet Paper on 3 April. We do not consider that this Amendment Paper is necessary for Ministerial consultation as it represents a technical change and not a policy change.
8. The Amendment Papers and regulations used for ministerial consultation may undergo minor changes following consultation because of the PCO peer review process. These will be finalised before being lodged on 3 April.

Amendment Papers

9. As noted above, there will be two Amendment Papers: a substantive Amendment Paper and an Amendment Paper for changes to schedules 2-4.
10. The substantive Amendment Paper incorporates:
 - the amendments agreed by Cabinet in September 2024, including 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],
 - subsequent policy decisions made by you and the Minister for Oceans and Fisheries (as was authorised by Cabinet) that include conditions for ring net fishing, and the nature of a three-year review [24-B-0501 and 24-B-0049 refer],

- technical amendments previously approved by you in October 2024 [24-B-0317 refers], and
 - minor changes to correct errors or to better achieve policy intent. A summary of these amendments is in Attachment B.
11. A separate Amendment Paper will be written for changes to the maps in schedules 2-4 to reference the completed cadastral survey plans.

Regulations

12. The attached Cabinet paper seeks authorisation from Cabinet to submit the following to the Executive Council:
- regulations for ring net fishing, and
 - regulations for infringement offences.

Ring net fishing regulations

13. 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 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.
14. The regulations outline conditions such as:
- 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.
15. You requested that the provision prohibits transferring of fish between boats [24-B-0501 refers]. This is already prohibited under the Fisheries Act, which the Bill states ring net fishers must comply with, so is not explicitly provided for in this Bill.
16. You recently agreed that ring net fishers will be identified by a letter from the Director-General of Conservation [25-B-0049 refers]. PCO are working on reflecting this decision in draft regulations. The draft ring net fishing regulations that reflect this decision will be sent to your office on Monday 24 March for Ministerial consultation.

Infringement offences

17. On 17 August 2023, Cabinet approved the development of regulations for infringement offences in the Bill [LEG-23-MIN-0151 refers].
18. These regulations are unlikely to be controversial and reflect existing conservation infringement offence regulations.
19. It is preferable that these regulations are in place shortly following commencement of the Bill as they are an important part of the regulatory system and deter low-level offending.

Supplementary Analysis Report

20. The Ministry for Regulation advised DOC that a Supplementary Analysis Report (SAR) must be carried out due to the absence of a Regulatory Impact Assessment on the amendments to the Bill agreed to by Cabinet [CAB-24-MIN-0386 refers].
21. This SAR is included in Attachment D and will be attached to the Cabinet paper.

22. A joint DOC and Ministry for Primary Industries Regulatory Impact Assessment panel assessed the SAR and determined that it *partially meets* the quality assurance criteria. The main reason the SAR did not fully meet the quality assurance criteria is that the proposals were constrained by decisions already made by Cabinet and a lack of consultation and baseline data.

Risk assessment – Aronga tūraru

23. The provision for ring net fishing may undermine biodiversity objectives and create equity issues. This is partially mitigated through the restrictions placed on the activity and the three-year review. This provision is highly controversial, especially without the inclusion of a sunset clause.
24. The removal of provisions in the Bill that provide for the regulation of customary non-commercial fishing risks that this activity could impact on biodiversity outcomes. This can be managed through effective engagement with mana moana.
25. If Ministerial engagement on the Cabinet paper does not begin on 25 March, this may delay consideration of the Amendment Paper at Committee of the Whole House.

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

26. 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.
27. Te Ohu Kaimoana and some mana moana have previously indicated opposition to the regulation of customary non-commercial fishing in the Bill. These groups are likely to support the removal of the regulatory power from the Bill.

Consultation – Kōrero whakawhiti

28. The following agencies were consulted on the Cabinet paper: Fisheries New Zealand, Ministry for Regulation, Ministry for the Environment, Ministry of Defence, Department of the Prime Minister and Cabinet, Maritime New Zealand, Te Tari Whakatau (previously Te Arawhiti) and Ministry of Justice.

Financial implications – Te hīraunga pūtea

29. 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.
30. The development of biodiversity objectives under the Bill will no longer need to be developed collaboratively with mana moana with the removal of the provisions that provide for the regulation of customary non-commercial fishing. Any cost savings because of this change will be used to support compliance and monitoring activities.

Legal implications – Te hīraunga a ture

31. Changes outlined in the Amendment Paper will be voted on at the Committee of the Whole House. Agreed changes will be incorporated into the Bill.
32. If approved, regulations will be submitted to the Executive Council to be gazetted.

Next steps – Ngā tāwhaitanga

33. We recommend you carry out Ministerial consultation on the Cabinet paper from 25-31 March. This will allow for the Cabinet paper to be lodged on 3 April, for consideration by LEG on 10 April.
34. On this timeframe, the Bill could be considered at the Committee of the Whole House 6-8 May.
35. If you have feedback on the Cabinet paper or require longer to carry out Ministerial consultation, this will push out the date for the Bill being considered at the Committee of the Whole House.
36. The regulations (both ring net fishing and infringement offences) can be submitted to the Executive Council for gazettal following Cabinet decisions. The regulations will come into force following the standard 28-day period or when the Bill is enacted (whichever is later).
37. See below for a detailed timeline for the steps discussed above.

Step	Date – updated timeline
Ministerial consultation on the Cabinet paper	25-31 March
Cabinet paper lodged	3 April
Cabinet paper considered by LEG	10 April
Cabinet paper considered by Cabinet	14 April
Amendment Paper submitted to the Clerk of the House and Regulations submitted to Executive Council	14 April
Committee of the Whole House	6-8 May
Third reading	8 May
Royal Assent	15 May
Regulations come into force	15 May

ENDS

Attachment A: Draft Cabinet Paper

Attachment A has been released separately as part of this package

Attachment B: Summary of amendments

Amendment	Explanation
Substantive amendments	
CI 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.
CI 8A: Addition of clause outlining obligations to Treaty settlements and recognised customary rights	This amendment ensures that all Treaty settlements are upheld.
CI 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.
CI 19A: Ring net fishing provision	This clause provides for ring net fishing to occur in two high protection areas given compliance with regulations.
CI 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.
<p>CI 5B and CI 19(1)(b): The reference to regulations for customary fishing is removed</p> <p>And</p> <p>CI 66: The requirement for collaborative development of biodiversity objectives with mana moana is amended to consultation</p> <p>And</p> <p>CI 66: The requirement for the Minister to consult with the Minister for Oceans and Fisheries on biodiversity objectives is removed</p>	<p>These are consequential amendments to the change outlined above.</p> <p>Subject to the change above, biodiversity objectives will have a much lower impact on customary non-commercial fishing.</p> <p>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.</p>
CI 67: Removal of the regulations for additional management actions in high protection areas	<p>This is a consequential amendment to the change in how customary non-commercial fishing is regulated in the Bill.</p> <p>This clause is redundant considering the changes to clause 66.</p>
CI 67A: Addition of regulation making power for ring net fishing	This clause provides for regulations to be developed to regulate ring net fishing.
CI 68A: Addition of review clause for ring net fishing	This clause provides for a three-year review of the ring net fishing provisions.

CI 68B: Addition of power to use an Order in Council to amend or repeal ring net fishing provisions	This clause provides for changes to be made to the ring net fishing provision in response to the three-year review.
Technical / minor amendments	
CI 5: Additional definitions added.	<p>Definitions of the following were added:</p> <ul style="list-style-type: none"> • Commercial fisher • Department • Minister • Purse seine net or lampara net • Ring net • Ring net fishing • Treaty settlement • Treaty settlement Act • Treaty settlement deed
CI 14 & 18: Clarification that dumping, depositing, discharge and vibrations are prohibited whether the source of the activity is inside or outside the protection area	<p>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.</p> <p>This change means that dumping, vibrations etc that happens outside of the protection area that subsequently flows into the area are prohibited.</p>
CI 15: Clarification that activities under clauses 20, 21 (activities exempted from prohibitions) and activities with a permit are exempt from additional prohibitions at the Mokohīnaui Islands SPA	<p>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 Mokohīnaui Islands SPA.</p> <p>This change will mean that activities under clauses 20 and 21 and activities with a permit can occur in the Mokohīnaui SPA, even in conflict with the prohibitions.</p>
CI 15: Referencing areas on survey office plans where additional prohibitions apply	Minor change to add a reference to the final survey office plans.
CI 19A: Clarity that the ring net provision does not limit customary non-commercial fishing in any way.	For avoidance of doubt, clarity was added to clause 19A that the provision does not impact on customary non-commercial fishing that may involve ring net fishing.
CI 21(c): Amended wording for the exemption for activities carried out under section 360(1)(a) and (ha) to (hh) of the Resource Management Act 1991 that relate to regulation of marine pollution.	For avoidance of doubt, clarity was added that only activities allowed under marine pollution regulations are exempt, and not discretionary activities that otherwise require a permit.
CI 21 and CI 38: Amendment of term 'permits' to 'approvals' and 'Act' to 'legislation'	Technical change – the terms 'permits' and 'Act' will too limited in scope to achieve the policy intent.
CI 21A: Clarity that DOC only has functions (not functions and powers)	Minor change to correct an error – the Bill as currently drafted references the Departments functions and powers. A Department cannot have powers (the Director-General can have powers).

CI 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 1987 therefore a regulation making power is not needed.
CI 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 eg 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.
Schedules 2-4: References to survey office plans	This change ensures that the Bill references the official survey office plans instead of indicative maps and descriptions.

Attachment C: Supplementary Disclosure Statement

Attachment C is withheld as it will be publicly available on this webpage: <https://disclosure.legislation.govt.nz/ap/government/2025/>

Attachment D: Supplementary Analysis Report: Amendments to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill

Attachment D has been released separately as part of this package