

Cabinet Paper Talking Points: Hauraki Gulf / Tīkapa Moana Marine Protection Bill – Authorisation for Amendment Papers

To	Minister of Conservation		
Committee	Cabinet Legislation Committee		
Date of meeting	10 April 2025		
Reference	25-K-0008	DocCM	DOC-10231089
Minister lead	Minister for Oceans and Fisheries acting for Minister of Conservation		
DOC Contact/s	Ewan Delany, Acting Deputy Director-General Policy and Regulatory Services, 9(2)(a) [REDACTED] Siân Roguski, Director Policy (Biodiversity, International and Funding), 9([REDACTED]		
Security Level	In Confidence		

Purpose – Te aronga

1. A paper is being considered by the Cabinet Legislation Committee on 10 April 2025 titled 'Hauraki Gulf / Tīkapa Moana Marine Protection Bill – Authorisation for Amendment Papers'.
2. This memo provides a brief overview of the paper and suggested talking points to support your attendance at the Cabinet Legislation Committee.

Background and context – Te horopaki

3. The Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) will contribute to the restoration of the health and mauri of the Hauraki Gulf / Tīkapa Moana by establishing 19 new marine protection areas. This will almost triple the area of marine protection in the Gulf.
4. In August 2023, the Bill was introduced to the House and referred to the Environment Select Committee (the Committee). In June 2024, the Committee reported back on the Bill recommending that it be passed.

Cabinet has taken a series of decisions to finalise policy for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill

5. In September 2024, Cabinet agreed to amendments to be progressed through an Amendment Paper at the Committee of the Whole House [CAB-24-MIN-0386]. Cabinet authorised the Minister of Conservation to make subsequent policy decisions in line with Cabinet decisions and in consultation with the Minister for Oceans and Fisheries.

Proposals

6. Authorisation is being sought to submit two Amendment Papers for consideration at the Committee of the Whole House stage. Near-final drafts of the regulations are attached to the Cabinet paper for noting.

7. An overview of the Amendment Papers and regulations are outlined below.

Amendment Paper 1 (PCO 23438-1/9.0)

8. *'Signposting' provisions have been added to the Treaty of Waitangi / te Tiriti o Waitangi* clause to provide clarity on how the Bill gives effect to the Treaty of Waitangi / te Tiriti o Waitangi. Additionally, a new clause makes it clear that all Treaty of Waitangi / te Tiriti o Waitangi settlements will be upheld.
9. *Provisions for ring net fishing* in two high protection areas, including empowering the Director-General of Conservation to authorise those who can ring net fish, a regulation making power for conditions on the ring net fishing and a three-year Ministerial review, have been added.
10. Two aspects of the Bill have been removed as now redundant:
 11. The ability for customary non-commercial fishing to be regulated to give effect to biodiversity objectives; and
 12. The 'no compensation' clause.
13. *Reference to 'whānau, hapū and iwi' have been replaced with 'iwi'* to ensure requirements in the Bill are not overly broad.
14. Other technical and minor amendments have been made to fix errors or better give effect to the policy intent.

Amendment Paper 2 (PCO 23438-2/6.0)

15. Descriptions of the protection areas have been replaced with reference to the cadastral survey plans.
16. Indicative maps have been updated.

Infringement regulations

17. These regulations outline penalties for infringement offences and how notices are issued. Infringement offences are an important component of the regulatory system and deter low-level offending.

Ring net fishing regulations

18. These regulations outline the conditions under which ring net fishing in two of the high protection areas can occur, including that each fisher can only operate one vessel, that is 6 meters or less in length, at a time.

Next steps – Ngā tāwhaitanga

19. Following approval from Cabinet, the Amendment Papers will be considered at the Committee of the Whole House, currently on the House of Representatives Order Paper.

ENDS

Appendix 1: Talking points

- On behalf of the Minister of Conservation, I am seeking Cabinet authorisation to submit two Amendment Papers to the Clerk of the House for consideration at the Committee of the Whole House Stage.
- The Amendment Papers align with previous Cabinet decisions.

About the Bill

- The Hauraki Gulf / Tīkapa Moana (the Gulf) is a taonga of natural, economic, recreational, and cultural importance. The Gulf is one of the most important ecological areas in the world. It is home to an extraordinary diversity of plants and animals, some of which are found nowhere else on the planet.
- Our country is known as the seabird capital of the world. One third of all seabirds that breed here, nest in the Gulf. The Gulf also sees many migratory or transient species including leatherback turtles, manta rays and humpback whales.
- Reports over the last 20 years have shown the Gulf to be in an ongoing state of environmental decline. There has been significant habitat and biodiversity loss, localised fisheries depletion including for Snapper/Tāmure and Tarahiki and an increase in invasive species introductions and spread, e.g., Caulerpa.
- Marine protection is crucial to reverse the environmental decline in the Gulf. It is expected that the proposed marine protection will create conditions whereby snapper density will increase by at least 400%, kōura (rock lobster) will increase by 20% and kina barrens – large seafloor areas largely devoid of large seaweeds and where kina are the dominant grazing species – will decrease by 30% relative to adjacent fished areas by 2030.
- The Bill is the result of an extensive social and scientific process over 10 years. I consider the Bill appropriately provides for the protection of marine biodiversity, which is critically needed in the Gulf, while balancing the impact on users of the Gulf and providing for Māori rights and interests.

About the proposed changes

- In September 2024 Cabinet agreed to changes to the Bill to be progressed through an Amendment Paper. Cabinet authorised the Minister of Conservation to make further policy decisions in line with Cabinet's agreed decisions in consultation with the Minister for Oceans and Fisheries.
- The most substantive amendments are to the Treaty of Waitangi / te Tiriti o Waitangi clause, how customary non-commercial fishing is provided for, and a new provision for limited ring net fishing.

The Treaty of Waitangi / Te Tiriti o Waitangi Clause

- The proposed change to the Treaty of Waitangi / te Tiriti o Waitangi clause ensures consistency with other conservation legislation, while also providing greater clarity as to how the Bill gives effect to the Treaty of Waitangi / te Tiriti o Waitangi through the signposting provisions.
- A review of the Treaty of Waitangi / te Tiriti o Waitangi clauses in legislation is currently underway. While this may result in a change in approach to how the Treaty of Waitangi / te Tiriti o Waitangi is referenced within the Bill in the relatively short term, a decision has been made not to anticipate the findings of that review by making a more significant change in approach at this time.

Customary non-commercial fishing

- Changes to the Bill will mean that customary non-commercial fishing will be regulated through the Fisheries Act only.
- Due to the limited scope of customary non-commercial fishing, I do not anticipate any significant impact on the biodiversity outcomes of the protection areas.

Ring net fishing provision

- Limited ring net fishing will be provided for in two High Protection Areas – representing only 3% of the area proposed for protection.
- This provision will be limited to five fishers who have previously fished in these areas. Regulations will outline the conditions for the ring net fishing activity.
- There will be a three-year Ministerial review of this provision.

Next steps

- Following your authorisation to submit the Amendment Papers to the Clerk of the House, the Amendment Papers will be considered, and voted on, at the Committee of the Whole House stage.

Appendix 2: Questions and Answers

Question 1: Why introduce legislation with a Treaty of Waitangi / te Tiriti o Waitangi clause that would automatically be subject to review?

Answer

The approach taken by the Bill is consistent with Treaty of Waitangi / te Tiriti o Waitangi clauses across conservation legislation. This is important as the application of section 4 (the Treaty of Waitangi clause in the Conservation Act 1987) is a key focus for DOC and is informed by case law.

While I acknowledge that the review into Treaty clauses is underway, I don't think it's appropriate to anticipate the findings of that review by making more substantive changes at this time. This is particularly the case when such changes would see the Bill become out of step with other Conservation legislation and create more uncertainty about DOC's obligations as a Treaty partner.

Question 2: What impact will customary fishing rights have on the biodiversity outcomes of the Bill?

Answer

The Bill provides for customary take that is regulated under the Fisheries Act. This gives effect to the Fisheries Deed of Settlement 1992 and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

This means that only customary take that has been authorised by a tangata kaitiaki or other authorised person can occur. Currently customary take can only be authorised for the purpose of hui and tangi.

All mana whenua who have been engaged with the development of this Bill have been clear that they want to see the health and mauri of the Gulf being restored and to continue to exercise their role as kaitiakitanga. This is demonstrated by the number of rāhui (customary practice that restricts people from gathering kai or accessing an area) being laid throughout the Gulf.

Question 3: Why is commercial ring net fishing being provided for in high protection areas?

	<p>Ring net fishing will be provided for in only two of the 12 high protection areas – representing 6% of the total area proposed as high protection areas, or 3% of the total area to be protected under this Bill.</p> <p>Ring net fishing will provide for fishers to continue to supply local communities with low-cost fish.</p> <p>The ring net fishing provision is limited and carefully managed through conditions such as limiting fishing to the months of March – August and limiting what species can be targeted.</p> <p>This change balances the needs of communities, the environment and the economy.</p> <p>A Ministerial review of the provision will be carried out within three-years of the Bill being enacted.</p>
<p><i>Question 4: Have you engaged on these changes? If so, what feedback have you received?</i></p>	
	<p>Given where we are in the Parliamentary process of progressing this Bill, there has been little opportunity for widespread engagement.</p> <p>However, previous feedback on the Bill has informed the decisions in this paper.</p> <p>I anticipate that the change to remove the Bill's ability to regulate customary non-commercial fishing will be welcomed by many iwi and Te Ohu Kaimoana.</p> <p>My officials have engaged with ring net fishers to ensure that the provisions in the Bill are workable and practical.</p> <p>There has been public opposition to the announcement for the provision for limited ring net fishing in two high protection areas. I consider that the proposed provision represents a balance of needs of communities, the environment and the economy.</p>

Appendix 3: Copy of Recommendations

The Minister of Conservation recommends that the Committee:

- note that the Supplementary Analysis Report attached to the Cabinet paper partially meets the quality assurance criteria;
- authorise the Amendment Paper (PCO 23438-1) for submission to the Clerk to be considered at the Committee of the Whole House stage;
- authorise the Amendment Paper (PCO 23438-2) for submission to the Clerk to be considered at the Committee of the Whole House stage;
- note the draft infringement offence regulations, attached as Attachment B to the paper;
- note the draft ring net fishing regulations, attached as Attachment C to the paper; and
- note that I will provide a further Cabinet paper seeking authorisation of the infringement offence regulations and the ring net fishing regulations to the Executive Council following commencement of the Bill.