

Cabinet Paper Talking Points

To	Minister of Conservation		
Date of meeting	27 June 2024		
Cabinet Paper	Progressing the Hauraki Gulf / Tīkapa Moana Marine Protection Bill		
GS tracking #	24-K-0015	DocCM	DOC-7671965
Minister lead	Minister of Conservation		
Committee	Legislation Committee		
DOC Contact/s	Sam Thomas, Director Policy 9(2)(a) [REDACTED] Angela Bell, Manager Marine Policy 9(2)(a) [REDACTED]		
Security Level	In Confidence		

Recommendations

1. Note that the Conservation portfolio is responsible for the following bill reinstated in the 54th Parliament:
 - 1.1 The Hauraki Gulf / Tīkapa Moana Marine Protection Bill 2023;
2. note that the purpose of the Hauraki Gulf / Tīkapa Moana Marine Protection Bill 2023 is to establish new marine protection areas to contribute to the restoration of the health and mauri of the Hauraki Gulf / Tīkapa Moana, while acknowledging customary rights;
3. agree that the Hauraki Gulf / Tīkapa Moana Marine Protection Bill 2023 continue to progress through the House.

Key points

- The Leader of the House has asked Ministers to confirm whether they still intend to progress Bills that have been reinstated from the previous Government.
- As the Minister responsible for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill), you are required to confirm through Cabinet Legislation Committee that you intend to continue work on the Bill. You recently approved the legislative bid for the Bill, as the highest priority within the Conservation portfolio (to be passed by the end of 2024 if possible).
- The Bill will establish 19 new marine protected areas:
 - two extensions to existing marine reserves which prohibit all fishing and other impactful activities;
 - five seafloor protection areas where bottom impacting activities such as bottom trawling, dredging and mining are prohibited; and

- 12 high protection areas, which will regulate a range of activities including commercial and recreational fishing, but will provide for customary fishing where it aligns with the biodiversity objectives of the protected area and is authorised under the existing Fisheries Act 1996 customary fisheries framework.
- Consideration of the Bill by the Environment Select Committee (the Committee) has concluded. **The Committee reported back to the House on 20 June 2024 with unanimous support for the Bill.**
- The date for the second reading has not yet been set. At this stage, the House will vote on whether the Bill, which will include the recommended changes by the Committee, will progress.
- The Committee of the Whole House is where Amendment Papers will be considered, and voted on, leading to potential amendments to the Bill.
- Over 7,000 submissions were received on the Bill, indicating a high level of interest from the public. The policy work that preceded the Bill also involved multiple engagement processes, including several rounds of engagement with mana whenua. For this reason, there would need to be clear messaging regarding any decision not to proceed with the Bill.

Appendix 1: Talking points

- The Hauraki Gulf / Tīkapa Moana (the Gulf) is recognised as a taonga of natural, economic, recreational, and cultural importance. The Gulf has a diverse array of habitats.
- The Gulf plays a critical role in our economy. It is a global tourism hotspot. Approximately 70% of all recreational fishing in Aotearoa is carried out in the Gulf.
- A recent assessment by the New Zealand Institute of Economic Research put the economic value of the Gulf at \$100 billion.
- It is also 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. It has a range of estuarine, coastal and marine habitats, including seagrass beds, rocky reefs, mangroves, cockle beds and sponge gardens.
- Aotearoa is known as the seabird capital of the world. One third of all seabirds that breed in Aotearoa, nest in the Gulf. The Gulf also sees many migratory or transient species including leatherback turtles, manta rays and humpback whales.
- However, reports over the last 20 years have shown it 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 crucially needed to reverse the environmental decline in the Gulf.
- We know that marine protection works. This has been proven both internationally and domestically. It is expected that the proposed legislation, if passed, 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.
- Crucially, the proposals have been designed to maximise the benefits while minimising the impacts on users, including our fishers.

- The Hauraki Gulf / Tīkapa Moana Marine Protection Bill will increase marine protection in the Gulf from 6.7% to around 18%. That's almost a threefold increase in marine protection – protecting the environment that supports our fishing and tourism industries.
- Commercial fishing in the proposed marine protection areas accounts for only 1-3% of total fishing in all quota management areas that include the Gulf.
- The marine protection proposals will tackle a broad range of pressures including fishing, discharges and dumping, and damage to the seabed. Addressing these pressures will build resilience to threats such as invasive species and climate change.
- 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.
- The Environment Select Committee has reported back on the Bill with unanimous support.
- I note that there is still an opportunity for amendments to be made to the Bill. I am currently considering matters to put forward in an Amendment Paper at the Committee of the Whole House stage. One of these matters is to make the te Tiriti o Waitangi clause more operative and descriptive.
- I strongly recommend that the Bill is retained on the legislative programme and continues to progress. There is a high level of public interest in the Bill's proposals, and in addressing the threats to the Gulf more generally.

Appendix 2: Questions and Answers

Question 1: <i>What is the economic impact of the Bill likely to be?</i>	
Answer	<p>The Bill will increase protection in the Gulf to around 18%, but an Economic Impact Assessment carried out by MartinJenkins found that commercial fishing in the proposed marine protection areas accounts for only 1-3% of total fishing in all quota management areas (QMAs) that include the Gulf.</p> <p>Annual revenue from fish caught within the proposed protection areas was estimated at \$4.2-\$5.2 million over the two-year study period, based on market price. This was approximately 2%-3.5% of the revenue generated by catch across all QMAs that include some or all of the Gulf.</p> <p>It is possible that the actual impact on revenue will be less than this as some fishers will be able to shift their fishing operations. Also, it is expected that marine protection will have a positive effect on fish numbers in the Gulf which will benefit fishers outside of these areas.</p> <p>For the majority of fishers, catch landed from the proposed protected areas was less than 10% of their total catch.</p>
Question 2: <i>How will this be funded?</i>	
	<p>Implementation of the marine protection will cost approximately \$10.5 million over four years with ongoing operational costs of just over \$3 million per year.</p> <p>The first year of funding for the 2023/24 financial year (\$1.605m) is through the International Visitor Conservation and Tourism Levy.</p> <p>The following years will be funded through reprioritisation of \$3.41m- \$3.51m from the Predator Free 2050 Strategy Budget 22 funding increase. This still gives approximately \$21.5m per year in additional funding from Budget 22 for the Predator Free 2050 Strategy.</p> <p>The funding will provide for establishment costs of the marine protection areas including signage and boundary markers, as well as on-going costs including education/awareness, compliance, and customary support. A major focus in the first two years will be on developing biodiversity objectives with mana whenua and education.</p>
Question 3: <i>How does the Bill relate to other initiatives like the Hauraki Gulf Fisheries Plan?</i>	
Answer	<p>The Bill is complementary to the Fisheries Plan, and addresses a different range of pressures. The Fisheries Plan sets long-term outcomes to guide the management of fisheries in the Hauraki Gulf Marine Park over the next five years. Both initiatives fall under the umbrella of Revitalising the Gulf, a strategy to sustainably manage the Gulf and support its recovery.</p>

Question 4: *What impact will the Bill have on Māori rights and interests?*

Answer

The Bill provides for Māori rights and interests through:

- Ensuring that nothing in the Act limits or otherwise affects any application under the Marine and Coastal Area (Takutai Moana) Act 2011;
- All protected customary rights or rights held by customary marine title groups under the Marine and Coastal Area (Takutai Moana) Act are exempt from any prohibitions, that is these rights can continue to be exercised undisturbed; and
- Providing for non-commercial customary fishing to continue to be exercised, under the existing Fisheries Act regime. The conditions on access to high protection areas to fish for customary purposes will be specified in regulations, which will be developed collaboratively with whānau, hapū, and iwi who exercise kaitiakitanga in the area.

Customary commercial fishing can still occur in areas outside of the proposed protection areas, and customary fishing using methods other than bottom trawling, Danish seining, and dredging can continue in SPAs and HPAs. I acknowledge that this may be at a higher cost to some fishers due to factors such as increased travel time and fuel use. I consider that the commercial aspects of the Fisheries Settlement will not be undermined by the establishment of protection areas in the Gulf.

Question 5: *What impact will customary fishing rights have on the biodiversity outcomes of the Bill?*

- The Bill provides for customary take that is currently 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.
- Biodiversity objectives will be collaboratively developed with mana whenua for each of the High Protection Areas (HPAs). This will lead to regulations providing further management actions, including for customary take, to give effect to these biodiversity objectives. The Select Committee have recommended that this must occur within 2 years of the Bill being implemented.
- The Minister of Conservation will also have the ability to place additional regulations on activities, including customary take, should it be necessary to give effect to the biodiversity objectives.

- 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 6: *Why is this Bill being used instead of existing legislation, e.g., the Fisheries Act 1996?*

Answer The Bill provides for the management of a broader range of activities than just fishing, e.g., the management of discharges and deposits, impacts of structures and damage to the seabed.

DOC and Fisheries New Zealand have concluded that the purpose of the Bill cannot be delivered solely under the Fisheries Act.

No existing legislation can deliver on the high protection areas proposed, i.e., the Marine Reserves Act 1971 would not enable customary non-commercial fishing to occur as intended under these proposals in order to give effect to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

ENDS