Department of Conservation
Te Papa Atawbai

Briefing: Hauraki Gulf / Tīkapa Moana Marine Protection Bill: Further policy decisions arising from submissions to Select Committee

To	Minister of Conservation	**Date submitted**	29 February 2024
Action sought	Agree to recommended changes to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill	**Priority**	High
Reference	24-B-0105	**DocCM**	DOC-7580843
Security Level	In Confidence		

Risk Assessment	Low If decisions are not made by 11 March, that will limit the Department's ability to produce the departmental report for the Environment Committee by its due date.	**Timeframe**	11 March 2023
Attachments	Attachment A – map of proposed marine protection Attachment B – table of minor/technical decision points		

Contacts	
Name and position	**Cell phone**
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Executive summary – Whakarāpopoto ā kaiwhakahaere

1. The Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) is currently before the Environment Select Committee (the Committee). The Department is in the process of preparing our report to the Committee providing a summary of submissions, responses to the content of those submissions, and recommendations for amendments to the Bill (the departmental report).

2. This briefing seeks your views on our recommended changes to the Bill. The majority of these are minor and technical in nature. We have provided more analysis and detail on six areas that require decisions from you:

    - adding a clause to reflect the intent that compensation will not be paid to people/organisations whose ability to fish or access quota has been affected by the Bill, as per existing convention;
    - prohibiting fishing methods such as bottom-trawling, Danish seining and dredging in high protection areas (HPAs), when these methods occur as part of customary fishing;
    - allowing for broader consultation on biodiversity objectives (BDOs) and associated regulations for high protection areas and seafloor protection areas (SPAs), other than for regulations that may affect customary fishing;
    - making the establishment of BDOs mandatory and requiring that they are developed within two years of the Bill being enacted;
    - using the proposed permitting process as a mechanism for providing for kina harvest within HPAs;
    - removing the permit exemption for activities that are authorised under other Department of Conservation-administered legislation; and
    - to not include the proposed Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve in the Bill.

3. When you have confirmed your decisions on the points in this briefing, we will incorporate these into the departmental report on the Bill. You will receive a draft version of the report on 15 March, ahead of its due date to the Committee of 22 March.

4. Officials are available to meet with you to discuss the proposals in this briefing, or any other aspect of the Bill. You may wish to share this briefing with the Minister for Oceans and Fisheries given his responsibilities for the Hauraki Gulf Fisheries Plan.

We recommend that you … (Ngā tohutohu)

		Decision
1.	**Agree** to include a clause in the Bill reflecting the intent that compensation will not be paid to people/organisations whose ability to fish will be impacted by the Bill	Yes / No
2.	**Agree** that bottom trawling, Danish seining and dredging will be prohibited in high protection areas, even if used as part of customary fishing	Yes / No
3.	**Agree** that consultation can occur with any relevant or affected parties as appropriate for developing biodiversity objectives for high protection areas and seafloor protection areas, except as these relate to customary fishing	Yes / No
4.	**Agree** that development of biodiversity objectives for high protection areas and seafloor protection areas will be mandatory	Yes / No
5.	**Agree** that the Bill will stipulate that biodiversity objectives must be developed with two years of the Bill being enacted	Yes / No
6.	**Agree** that kina harvest for restoration purposes within high protection areas will be managed through a permitting system (current proposal in the Bill)	Yes / No
7.	**Agree** to remove the permit exemption for authorisations issued under other Department of Conservation-administered legislation	Yes / No
8.	**Agree** that the proposed Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve is not included in the Bill	Yes / No
9.	**Note** that we can provide further information on minor/technical decisions at your request	
10.	**Note** that your agreement to all proposed changes to the Bill and responses to issues raised during submissions will be sought through your review of the draft departmental report	
11.	**Note** that some submitters have raised fundamental concerns with the Bill, for example the effects of the proposals on the 1992 Fisheries Deed of Settlement, and that the Committee has requested further advice from the Department on some of these matters	

12.	**Note** that Department officials are meeting with the Legislation Design and Advisory Committee on 29 February 2024	
13.	**Forward** a copy of this briefing to the Minister for Oceans and Fisheries	Yes / No

S9(2)(a) [redacted]

Date: 29 / 02 / 2024

Ruth Isaac
Deputy Director-General, Policy and Regulatory Services
For Director-General of Conservation

Date: / /

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

1. This briefing seeks your agreement on recommended changes to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill (the Bill) in response to public submissions to the Environment Select Committee (the Committee). Some recommended changes have been identified separately by the Department of Conservation (the Department) and the Parliamentary Counsel Office.

Background and context – Te horopaki

2. The Bill is currently being considered by the Committee, with submissions received from over 7,000 organisations and individuals with interests in the Hauraki Gulf / Tīkapa Moana (the Gulf). The Bill seeks to establish 19 new protected areas in the Gulf which would almost triple marine protection in the Gulf, to around 18 percent. A map of the proposed marine protection is at Attachment A, and includes:

    - two extensions to existing marine reserves, which are strictly no-take, and are a very effective way of protecting marine life and habitats. They provide control sites for measuring changes in the marine environment over time;
    - 12 high protection areas (HPAs), the purpose of which is to protect, restore and enhance biodiversity. A range of activities will be prohibited in HPAs, including commercial and recreational fishing, and dumping or discharge of waste. Customary fishing will be provided for in HPAs, authorised through the existing customary fisheries framework under the Fisheries Act 1996; and
    - 5 seafloor protection areas (SPAs), the purpose of which is to maintain and restore benthic (seabed) habitats. Activities prohibited in SPAs include trawling that makes contact with the seabed, dredging, and Danish seining. Sand extraction, mining, and aquaculture will also be prohibited. Fishing methods that are not harmful to seafloor habitats (such as spear fishing and line fishing) will be allowed to continue in SPAs.

3. The Department is required to provide a report (the departmental report) to the Committee no later than 22 March, summarising the submissions, responding to issues raised and providing recommendations for any changes to the Bill.

4. Some submitters have raised more fundamental concerns with the Bill (rather than suggestions for changes). These concerns include: the use of special legislation (versus using existing legislation); impacts on the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and Deed of Settlement; the process by which the marine protection proposals were developed; the implications of the Bill for wider marine protection policy; and the capacity of the Department to manage the protection areas. We do not consider these concerns warrant changes to the proposals. The Committee has requested further written advice from the Department on some of these matters; we will pass our draft advice to your office. As they are being considered separately, they will not be addressed in the departmental report.

5. We are seeking your decisions on the more substantive changes to the Bill recommended by submitters.

Policy decisions

6. Most recommended changes to the Bill do not change the general policy intent; they are mainly clarifying points that are currently ambiguous in the Bill. Attachment B contains a full list of recommended changes; further detail and analysis on these proposed changes will be included in the departmental report, and a few are still being considered but are not substantive enough to require a decision from you at this stage. We welcome any feedback or views on these minor and technical decisions. There are six issues that require a decision from you before we finalise our recommendations for the departmental report.

Compensation

7. Existing legislation such as the Marine Reserves Act 1971 and the Fisheries Act 1996 do not include any mechanisms that provide for payment by the Crown of compensation to quota owners when areas are closed or made unavailable to fishing by the Crown for sustainability, biodiversity or conservation purposes[1].

8. Currently, the Bill is silent on whether compensation can be paid to people where the protections created by the Bill impact on their ability to fish or harvest their quota. We have previously advised Cabinet that compensation will not be available to those affected by the marine protection proposals, consistent with current practice [Cabinet paper, December 2022, Revitalising the Gulf – progressing marine protection and the Fisheries Plan refers].

9. S9(2)(h) [redacted]

10. The protection proposals under the Bill do not involve taking of property rights but will have an effect on the exercise of those rights (for example, through fishers needing to shift their fishing effort elsewhere within the broader quota management area at a potentially increased cost). In keeping with current practice, our impact analysis concluded that the effect is not significant enough to warrant compensation, for example, the protection areas represent a small percentage of quota management areas. The effect is justifiable in the context of the purpose of the Bill, however you may wish to consult with your Cabinet colleagues about this.

[1] The Fisheries Act provides that the Crown is not liable to pay compensation for sustainability measures under that Act; the Marine Reserves Act is silent on compensation but the decision-making processes under that Act mitigate any requirement for compensation to be paid to quota owners.

S9(2)(h) [redacted]

11. Without a "no compensation clause", whether compensation would be payable would be a matter for the court to decide. It is difficult to predict the cost to the Crown if compensation were payable to affected quota owners. It would depend on how many owners sought compensation and aspects such as the value of their annual catch entitlement (ACE) and level of fishing effort.

12. We recommend including a "no compensation clause" in this Bill. This aligns with the current approaches under the Marine Reserves Act and Fisheries Act, upholding the Crown precedent of not compensating for conservation or sustainability initiatives. There would be significant precedent-setting if compensation were to be allowed when establishing future protected areas. Currently, no funding is set aside for such compensation.

Bottom trawling, Danish seining and dredging for customary fishing in HPAs

13. The Bill provides for non-commercial customary fishing to continue within the proposed HPAs, under the existing customary fishing framework established and regulated through the Fisheries Act 1996 (and consistent with any biodiversity objectives established in collaboration with whānau, hapū and iwi who practice kaitiakitanga in the area).

14. As currently drafted, the Bill provides for all non-commercial customary fishing regulated through the Fisheries Act to occur until biodiversity objectives are established. This includes the use of all fishing methods. In theory it therefore also includes bottom trawling, Danish seining, and dredging. While it is unlikely, these methods could theoretically be used within an HPA for non-commercial customary fishing[4].

15. Despite the low risk of these methods being used, the Department recommends that the methods are explicitly prohibited in HPAs. This is because these fishing methods can have significant biodiversity impacts, compared to other fishing methods which would fundamentally undermine the purpose of the HPAs. These methods not only remove the target species and may have significant levels of bycatch but can also have significant impacts on supporting habitats through direct contact of the fishing equipment with the seabed.

16. Due to the low risk of these methods being used, we do not consider that this explicit prohibition of methods would have a significant impact on non-commercial customary fishing. Ensuring these fishing methods are not used within the HPAs could also assist with better aligning with international guidance on marine protected areas.[5]

Consultation on biodiversity objectives for HPAs and SPAs

17. The Bill provides for the development of biodiversity objectives (BDOs) for SPAs and HPAs, and associated regulations to give effect to the BDOs for each HPA. The BDOs and subsequent regulations are to be developed collaboratively with whānau, hapū and iwi who exercise kaitiakitanga in the area.

18. BDOs for SPAs and HPAs influence a range of matters in the Bill such as permitting, monitoring, and review, as well as ancillary matters that may be restricted by regulations such as anchoring. As such, we consider that the Bill should provide for consultation with relevant stakeholders. For example, we anticipate engagement with the science community to inform the Crown position on appropriate monitoring, and with affected parties regarding impacted activities. We propose to add a clause to the effect of, the Minister must be satisfied that relevant or affected parties have been appropriately consulted in the development of BDOs and associated regulations. We note that engagement on regulations that impact customary fishing will be limited to whānau, hapū and iwi who exercise kaitiakitanga in the area, and consulted on with the Minister for Oceans and Fisheries.

[4] While bottom trawling and Danish seining are commercial fishing methods, they can theoretically be used by a commercial fisher in an HPA who is collecting fish on behalf of a customary authorisation holder.
[5] Guidance from the International Union for Conservation of Nature is that fishing methods such as bottom trawling are defined as "industrial fishing" and incompatible with marine protected area status.

Making the development of biodiversity objectives for HPAs and SPAs mandatory

19. Currently the Bill does not require that BDOs for HPAs and SPAs are developed or place any timeframe during which they must be developed. We agree with the submission recommending that BDOs be required under the Bill and propose that there is a two-year period from enactment during which the BDOs must be developed.

20. BDOs have an important role in the implementation of the Bill, e.g. informing permit application processes, monitoring and reporting, and for regulations in HPAs. Confirmation of the BDOs will provide certainty for managers of the areas (the Department), for those applying for permits, and to mana whenua and the public on any activities that may be regulated in the area.

21. It is possible that the absence of a statutory requirement for BDOs to be developed in two years could cause the process to extend into many years or not progress at all.

22. There may be some opposition from mana whenua to having a legislative timeframe to develop BDOs. The Department heard from mana whenua that these types of collaborative projects can take time, and that mana whenua should not be constrained by Crown-enforced timeframes. However, we consider on balance that the BDOs not being developed in a timely manner would impact on the effective implementation of the Bill and would provide uncertainty to a range of users. As such we recommend that BDOs are mandatory and must be developed within two years of the Bill's enactment.

Kina harvest exemption

23. "Kina barrens", seabed areas largely devoid of large seaweeds, and where sea urchins / kina are the dominant grazing species, are an ecological issue in northeastern New Zealand. Kelp forests have been restored in no-take marine reserves as a result of the recovery of harvested species such as lobster / kōura and snapper / tāmure - predators of kina. Targeted removal of kina by humans may promote the recovery of kelp forests.

24. Kina barrens and their management is a topic of current public interest. An increase in the recreational daily bag limits for kina in Northland is currently being considered by Fisheries New Zealand.

25. The Kina Industry Council has submitted that commercial harvest of kina should be allowed to continue in HPAs, to help promote ecosystem recovery. As the Bill is currently drafted, fishing within HPAs is a prohibited activity[6], and can only be undertaken if it is for non-commercial customary purposes, is exempt from the prohibitions (for example, as part of a biosecurity action), or has a permit (the Bill provides a process for permitting otherwise prohibited activities).

26. The removal of kina from HPAs for ecosystem restoration purposes is provided for through the permitting system in the Bill. The permit system would allow for kina removal to occur with conditions to be placed on the harvest, for example to set harvest levels, set reporting requirements, specify locations where the harvest should occur or to ensure any potential incidental impacts are managed. A permit system would also assist with compliance and law enforcement.

27. A blanket exemption for kina harvest would create challenges from a compliance perspective and would mean that restoration would be reliant on fishing, the drivers of which (for example, economic benefit) may be different to the drivers for ecosystem restoration. We do not consider that kina harvest should be exempt on a permanent basis within the HPAs; a permitting regime would help ensure that the restoration activities can cease once certain biological thresholds have been met, or after a certain amount of time.

[6] Kina harvest would be allowed to continue within the seafloor protection areas.

Permitting in HPAs

28. Currently, the Bill includes several exemptions to activities that are otherwise prohibited in HPAs – for example, activities under the Biosecurity Act 1993, under the Resource Management (Marine Pollution) Regulations 1998, and action necessary in an emergency relating to human safety or the protection of the environment. Also on this list is any activity permitted under any Act administered by the Department of Conservation. In the areas proposed for protection, this could include authorisations issued under the Wildlife Act 1953, the Marine Mammals Protection Act 1978, and possibly the Conservation Act 1987.

29. The Environmental Defence Society (EDS) has submitted that it considers the Department of Conservation-administered legislation exemption to be inappropriate as the Bill has a much stronger protective purpose. They have therefore proposed that clause 21(g) of the Bill is amended to:

> The prohibitions in sections 14, 15, and 18 do not apply to— (g) any activity for which an authorisation has been granted under any Act administered by the Department of Conservation at the time this Act commences, until the expiration of that authorisation.

30. We agree with EDS' suggestion and propose that wording to this effect is included in the Bill. This would also provide consistency with how consents issued under the Resource Management Act 1991 are treated in the Bill. It means that once any existing authorisations have expired, the person/organisation carrying out the activity would be required to obtain a permit both under this Bill, and under any other applicable Department of Conservation-administered legislation.

Inclusion of the proposed Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve

31. In April 2021, the Friends of the Hauraki Gulf[7] made an application for the Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve. You are the decision maker for this application (with the concurrence of the Minister for Oceans and Fisheries and Minister of Transport).

32. The Department is currently working through whether the application meets the tests of the Marine Reserves Act 1971. This includes engagement with affected groups on the proposed marine reserve. The marine reserve proposal is contentious with both strong supporters and opposers. We expect to provide final advice to you mid-year.

33. Several submitters have requested that the proposed marine reserve is included in the Bill, likely because they consider it will be more guaranteed and faster to be implemented.

34. The proposed marine reserve has not been included in the Bill as it was not a part of the original recommendations in the Sea Change – Tai Timu Tai Pari Hauraki Gulf Marine Spatial Plan, nor was it considered in Revitalising the Gulf – Government Action on the Sea Change Plan.[8] As such, it has not had the same extensive social and scientific process that the proposals in the Bill have had over the last 10 years. We consider it appropriate for the Hākaimangō-Matiatia (Northwest Waiheke) Marine Reserve application to continue to be considered under the statutory process of the Marine Reserves Act.

[7] The Friends of the Hauraki Gulf are a community group focussed on restoring biodiversity in the Hauraki Gulf and its islands.

[8] These plans were instrumental in developing the Bill. *Sea Change – Tai Timu Tai Pari* was developed by a 14-member working group representing tangata whenua, environmental groups, and the fishing, aquaculture, and agriculture sectors. It made over 180 proposals for the Gulf and its catchments. *Revitalising the Gulf* is the Government's response to *Sea Change* and sets out the actions the Government will be taking alongside tangata whenua, stakeholders, and local communities to restore the health of the Gulf.

35. If the proposed marine reserve were to be included in the Bill, we consider it must undergo all the appropriate analysis and engagement first. Following this, you may wish to consult with your cabinet colleagues (as this would be a substantial policy change). Due to the analysis and engagement that needs to occur first, and any consultation you may wish to do with your Cabinet colleagues, we consider it unlikely for the proposal to be added before the departmental report is due to the Committee in late March.

36. Additionally, as the marine reserve application is subject to an underway statutory process, the Department would not be able to stop or pause this process if the proposed marine reserve was considered for inclusion in the Bill. This would mean both processes would progress simultaneously until one was approved.

37. The Department considers that should the proposed marine reserve be considered for inclusion in the Bill, it would likely extend the Bill's implementation timeframes, and create inefficiencies across statutory processes. We therefore recommend that the proposed marine reserve is not included in the Bill.

Minor legal issue raised by the Parliamentary Counsel Office

Penalties and compliance

38. Currently, clause 48 of the Bill states that a person who is charged with or prosecuted for an offence under the Bill cannot also be proceeded against for an infringement offence for the same conduct. This is to explicitly rule out the possibility of double jeopardy.

39. We are proposing to remove this clause, because the legal principles around double jeopardy are already well established in other legislation, such as the New Zealand Bill of Rights Act 1990, and through case law. This means that it is unnecessary for inclusion in the Bill and could create uncertainty in other legislation that does not specifically rule out double jeopardy.

Risk assessment – Aronga tūraru

40. Recommendations in this briefing align with previous Cabinet decisions, and with related legislation such as the Marine Reserves Act and the Fisheries Act.

41. A decision to include a "no compensation clause" is likely to be controversial and may require consultation with your Cabinet colleagues. Including such a clause may result in legal claims as a result of potential perceived or actual effects, such as on the Fisheries Settlement.

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

42. Some submitters, including Te Ohu Kaimoana and Seafood New Zealand, have raised a concern in their written and oral submissions regarding the impact of the Bill on the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and Deed of Settlement. The Committee has requested written advice on this matter; we are developing this and will pass it to your office before submitting it to the Committee.

43. For the purposes of this Briefing, if you agree to exclude bottom trawling, Danish seining, and dredging in HPAs for customary fishing, opponents may argue that this will impact on rights under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. We consider that the prohibition of these methods is highly unlikely to have a significant impact on non-commercial customary fishing rights as the methods are not commonly used for this purpose.

44. Mana whenua may oppose the two-year timeframe for the development of biodiversity objectives, as they have previously indicated that these types of processes require careful consideration and adequate engagement and should not be constrained by Crown-enforced timeframes. We consider that the broad application of biodiversity objectives necessitates the development of these in a timely manner.

45. Mana whenua may oppose other parties being consulted on the development of biodiversity objectives and regulations. However, no other party will be consulted on regulations that may impact non-commercial customary fishing.

Consultation – Kōrero whakawhiti

46. We have consulted with the Ministry for Primary Industries and Parliamentary Counsel Office on aspects of this briefing relevant to their areas of expertise and responsibilities.

Financial implications – Te hīraunga pūtea

47. We do not anticipate any financial implications from the issues raised in this briefing.

Legislative implications – Te hīraunga a ture

48. Decisions that you make will be incorporated into the departmental report to the Committee, informing the version of the Bill that is reported back to the House. If you consider that further changes are needed following the Committee's report back, these can be made via Supplementary Order Paper, with agreement from your Cabinet colleagues.

Next steps – Ngā tāwhaitanga

49. Following your decisions on the recommendations in this briefing, we will provide a near-final version of the departmental report to your office on 15 March. The departmental report is due with the Committee on 22 March, with hearings to consider the departmental report beginning on 28 March.

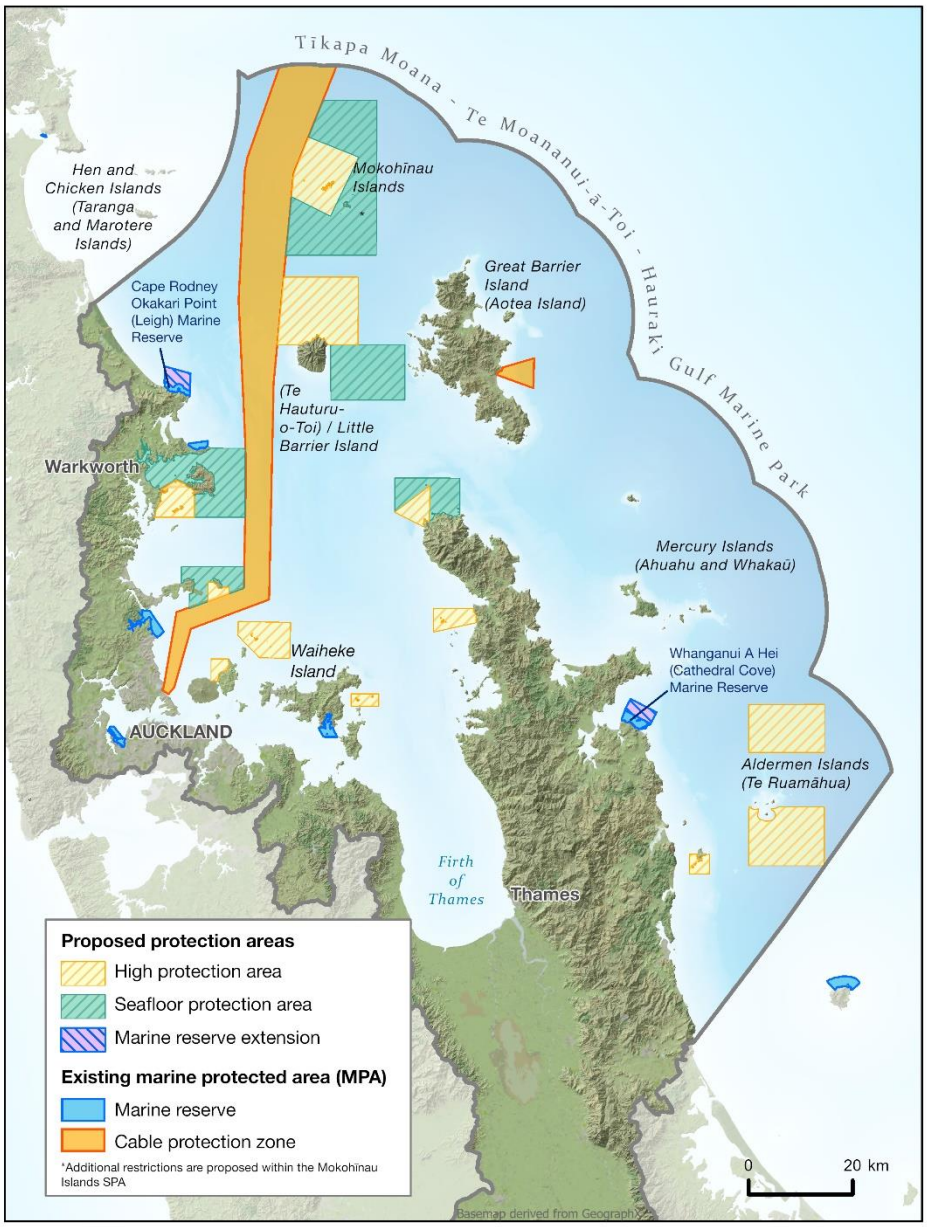
50. Department officials are meeting with the Legislation Design and Advisory Committee on 29 February 2024. There may be some further recommended changes to the Bill that will be included in the departmental report. We do not anticipate any significant changes to the Bill following the meeting, but we will seek your decision on any substantive proposed changes should there be any.

51. The Committee is due to report back to the House at the end of May.

52. You may wish to forward a copy of this briefing to the Minister for Oceans and Fisheries for his information, given the intersections with his role and responsibilities.

ENDS

Attachment A: Map of proposed protected areas



Attachment B: Table of minor/technical decisions

Issue	Proposed response
Change the name of the Bill to Hauraki Gulf Marine Protection Bill	No change
Change the name of the Bill to include Te Moananui-A-Toi	No change
Widen the purpose of the Bill to include commentary on the 30 by 30 initiative (protecting 30% of the marine environment by 2030)	No change
Include a definition of Treaty of Waitangi principles, or delete the clause referring to the principles	No change
Revise the definition of "potting" to clarify that it is not prohibited to use a net to catch fish in SPAs	Change the definition to clarify that using a net is allowed
Revise the definition of "bottom longlining" to be consistent with relevant Fisheries regulations	Change the definition to clarify that bottom longlining means using a line to which 7 or more hooks are attached, and is sunk using weights
Define tangata whenua and Māori in the Bill	No change
Move the definition of "protected areas" to the interpretation section of the Bill, rather than Part 2 of the Bill	Clarify use of "marine protected area" definition
Clarify wording of purpose for SPAs and HPAs	Change wording to include that where habitats are degraded, the HPAs and SPAs have a restoration purpose
Create a new clause providing for DOC's management functions	Add clauses setting out DOC's role and powers in relation to SPAs and HPAs
Explicitly include "mauri" in the purpose of SPAs and HPAs	No change
Prohibit removing sand, shingle, shells, and other non-living natural material from the seabed in SPAs	No change
Update definition of SPAs to make it clearer that scallops, crayfish and kina can be harvested without touching the seafloor	No change
Amend wording of HPA prohibitions to rule out disturbing benthic habitats	No change; as currently drafted the Bill refers to habitats more generally
Allow for harvesting of kina in HPAs	Refer to paragraphs 23-27
Wording of cl 18(2)(i) – definition of "adverse effect" vs "more than minor adverse effect"	No change

Specify in the HPA prohibitions that activities can occur if a valid permit is held	No change; this is already provided for in the Bill
Ban trawling in HPAs	No change; this is already provided for in the Bill
Provide for some non-customary fishing in HPAs, particularly finfish given that they are likely to move in and out of protected areas	No change
Explicitly prohibit bottom-impact fishing methods in HPAs where these are used as part of customary fishing	Refer to paragraphs 13-16
Allow for Danish seining in SPAs and HPAs	No change
Use a term other than "prohibition" to describe activities that will be allowed only with a permit in SPAs and HPAs	No change
Remove allowance for customary fishing in HPAs	No change
Define customary fishing strictly as fishing that uses technologies available prior to 1800	No change
Change definition of HPAs to give recreational fishers the same rights as tangata whenua	No change
Change wording of "customary fishing" to "customary practices"	No change, as non-fishing cultural practices can continue to occur in HPAs
Remove allowance for taking small amounts of natural material from HPAs	Do not remove this clause, but clarify that natural material to be removed must be "non-living"
Add a definition for "small quantity" of natural material	No change required
Add a definition for "commercial purpose"	No change
Consider whether beachcast seaweed can be removed from HPAs under the Bill's current drafting	No change
Remove the exemption from the permitting process for activities authorised under other legislation administered by DOC	Refer to paragraphs 28-30
Include cable installation and maintenance in the list of exemptions from prohibitions in the Bill	No change to exemptions but add 'submarine cable' to definition of 'structure' for avoidance of doubt.
Exempt Council activities from prohibitions	No change
Extend exemption from prohibitions to activities with renewed resource consents	No change
Remove exemption from prohibitions for activities with current resource consents	No change
Require permit applications to consider consistency with biodiversity objectives	No change

Require that BDOs are established before any permits can be issued	No change
Require monitoring of the ongoing effects of permits	No change; this can already occur under the Bill
Remove the DOC permitting process and instead rely on tools from the RMA	No change
Require report-backs from all permit-holders	No change
Create clearer roles for tangata whenua in decision-making	No change
Require the Director-General of DOC to consider the purpose of the protected area when making decisions on permit applications	Clarify wording to achieve this effect
Require the Director-General of DOC to publicly consult on permit applications	No change, as the DG already *may* consult
Strengthen wording to be more restrictive about when permits can be issued	No change
Strengthen language for managing impacts of permits on tangata whenua	No change
Widen the reasons for which the Director-General of DOC could choose to revoke or change a permit	Include wording to take into account cumulative effects
Allow a broader range of stakeholders to appeal Director-General's decisions on permit applications	Provide for persons who were consulted on a permit application to be able to appeal the Director-General's decisions
Cost recovery of permit applications	No change
Remove the ability for rangers to require an email address to be provided where they believe a person is committing, has committed, or is about to commit, an offence against this legislation.	Remove the ability to require an email address to be provided.
Strengthen enforcement provisions to ensure compliance	No change
Update definition of commercial fishing to remove some awkward phrasing	Remove "by at least" from clause 41(5)(b)
Update definition of commercial offence for consistency with the Fisheries (Amateur Fishing) Regulations 2013	No change
Include an offence for breaching permits	No change, the Bill already provides for this
Require that infringement fees go towards environmental protection of the area, rather than into the Crown bank account	No change
Include in the Bill where revenue from infringement fee is to go	No change
Change how seized property is treated when no charges have been laid	Amend text to refer to relevant section in the

	Search and Surveillance Act 2012.
Modify forfeiture details to allow judicial discretion	Amend text to align with the relevant sections of the Fisheries Act 1996
Allow for public consultation on biodiversity objectives	Refer to paragraphs 17-18
Increase specificity about purposes for which regulations can be made	Currently under consideration
Provide more detail on matters to be considered by Minister of Conservation in making regulations	Currently under consideration
Provide further detail in the Bill on what a biodiversity objective is	No change required
Include a purpose for biodiversity objectives	No change
Make biodiversity objectives compulsory within two years of the Bill being passed	Refer to paragraphs 19-22
Customary fishing can occur only once biodiversity objectives are finalised	No change
Provide further clarity on how biodiversity objectives will be established	No change
Ensure biodiversity objectives contain targets of importance to tangata whenua	No change required; the Bill already provides for this
Provide for biodiversity objectives through coastal plans rather than through regulations	No change
Establish default biodiversity objectives until more specific ones are developed	No change
Consider the way boundary marking is provided for, and whether it would better sit in the regulations	Move the marking of boundaries into the clauses of the Bill that relate to DOC's role
Reduce the review period from 25 years to 10 years	No change
Specify a process for changes to be made post-review	No change
Include reviewing against the 30 by 30 target in the review clause	No change
Specify groups of stakeholders to be included in the review process	No change required
Require that review process includes recommendations for changes	No change required
Amend the review clause to specify a process and timeline	Include a timeline for Ministers to report on reviews, but do not include other procedural provisions

Allow for restoration in protected areas	No change required
Provide for DOC's management functions in protected areas	Add a clause specifying DOC's functions
Include a mechanism for more protected areas to be established	No change
Require monitoring of protected areas	This will be included in the clauses specifying DOC's functions
Monitor impacts of customary fishing	No change
Include specific provisions for mātauranga Māori, research and monitoring	Include a reference to mātauranga Māori in the list of DOC functions
Allow for modification to boundaries of protected areas	No change
Allow for adaptive management approaches	No change
Include the proposed Hākaimango-Matiatia marine reserve in the Bill	Refer to paragraphs 31-37
Include provisions to manage land-based impacts	No change
Establish an overarching governance and policy framework	No change
Provide for an underwater sculpture park	No change
Completely ban bottom-trawling in the Gulf	No change
Add new protected areas, such as at Tāwharanui, east and west sides of Coromandel Peninsula, or around each protected island in the Gulf	No change
Include protections for seabirds and ability to respond to biosecurity issues	No change
Prioritise western science as a decision-making tool for protection	No change
Change how Māori are defined in the Bill to refer to tangata whenua and ahi kā, rather than iwi, hapū and whānau	No change
Include more details about how and when restoration activities can occur	No change
Ensure penalties are adequately harsh to incentivise compliance	No change required
Set fees for permit applications	No change
Enable rangers to order removal of structures from protected areas	No change
Include protection of estuaries in the Bill	No change
Protect bivalves such as mussels in SPAs	No change
Allow fish feeding in HPAs	No change
Clarify when anchoring can happen in protected areas	Add a clause to the Bill that specifies that anchoring is allowed in

	SPAs and HPAs with appropriate conditions
Incorporate ahu moana approaches	No change
Incorporate use of special management areas as being explored in the Hauraki Gulf Fisheries Plan	No change
Make changes to the fisheries management regime in the Gulf, such as bag limits and restricting fishing methods	No change
Provide for full protection on an interim basis for areas being considered for future protection	No change
Establish a Hauraki Gulf / Tīkapa Moana Crisis Management Group	No change
Use Fisheries Act to locate trawl/seine corridors where they would have the least impact on biogenic habitats	No change
Support councils to manage any threats to biodiversity through Resource Management Act tools	No change
Manage high recreational fishing pressure using the Fisheries Act	No change
Control invasive species under the Biosecurity Act	No change required
Allow static bottom-contact fishing methods such as potting and bottom long-lining in SPAs and HPAs as these are lower risk	No change
Manage effects of visitor numbers using the Conservation Act and Marine Reserves Act	No change
Use Fisheries Act regulations and conservation regulations to manage impacts on sensitive benthic species	No change
Various changes recommended to boundaries and sizes of protected areas	No change
Reduce Te Hauturu-o-Toi / Little Barrier Island HPA, and adjust boundaries to allow rock lobster harvest	No change
Use bylaws/regional coastal plan rules to prohibit anchoring and swing moorings in the Whakahau / Slipper Island HPA	No change
Amend Bill to reduce impact on customary rights, and uphold Fisheries Settlement	No change
Extend existing Motu Manawa / Pollen Island Marine Reserve	No change
Use Marine Reserves Act, rather than bespoke legislation, to extend marine reserves	No change
Change Te Whanganui-a-Hei / Cathedral Cove Marine Reserve extension to be an SPA instead	No change
Issue a permit to Takangaroa Island Trust for anchoring in the Kawau Bay HPA prior to the legislation being passed	No change
Ensure this Bill does not restrict dog walking on the beach	No change
Permit residents of South Bay, Kawau to fish in the Kawau Bay HPA	No change

Permit anchoring within the Kawau Bay HPA	No change
Allow for permits to be constrained to particular people	No change required
Allow for permits to be transferred from one person to another	No change required
Allow vessels to be launched in the Kawau Bay HPA	No change required
Issue a permit to Auckland Council, Auckland Transport and local barge companies to beach a barge at South Cove, Kawau for infrastructure purposes	No change required
Allow residents of Slipper Island to fish	No change
Include a shoreline setback of 150 metres for small scale infrastructure such as jetties	No change
Make the SPA at Tiritiri Matangi and Cape Colville into an HPA	No change
Oppose permits being issued to dump waste, dredge, trawl, Danish seine, or mine in protected areas around Kawau	No change
Allow for recreational fishing around Aldermen Islands, Mokohīnau, Slipper Island protected areas.	No change
Ensure protected areas are not adjacent to bottom fishing access zones (under Hauraki Gulf Fisheries Plan)	No change
Change name of Rotoroa Island High Protection Area	Update name to become Pakatoka and Tarakihi / Shag Islands High Protection Area
Allow for HPAs to be redesignated as SPAs if they are important for commercial fishing	No change
Change the name of Whanganui A Hei (Cathedral Cove) Extension Marine Reserve to Te Whanganui-o-Hei / Cathedral Cove Extension Marine Reserve	Make this change to reflect official name change of the existing marine reserve
Minor and technical changes to maps in Schedules 2, 3 and 4 of the Bill that do not change the actual boundaries of the protected areas	Make these changes to align with best practice for mapping, and provide clarity and consistency
Change the name of Ōtata / Noises Island High Protection Area to The Noises High Protection Area	Make this change as Ōtata is just one of the larger islands in the Noises group
Change the names of the “Aldermen Islands / Te Ruamāhua (north) High Protection Area” and “Aldermen Islands / Te Ruamāhua (south) High Protection Area”to remove the macron from the ‘a’ in ‘Ruamāhua’	Make this change to follow advice from the New Zealand Geographic Board