

Supplementary Departmental Disclosure Statement

Hauraki Gulf / Tīkapa Moana Marine Protection Bill

A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill; and
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

The original disclosure statement for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill, dated 10 August 2023, can be found at this link

https://disclosure.legislation.govt.nz/assets/disclosures/bill_government_2023_282.pdf.

This supplementary disclosure statement was prepared by the Department of Conservation.

The Department of Conservation certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

12 March 2025.

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The Main Areas of Change to the Original Disclosures

This is a supplementary disclosure statement for the Hauraki Gulf / Tīkapa Moana Marine Protection Bill.

A supplementary disclosure statement supplements the original disclosure statement for the Bill by reporting the additions and changes that would need to be made to the original disclosure statement to accurately reflect the Bill with the proposed government amendments incorporated.

Where the Bill now also incorporates changes made by a select committee of the House, the supplementary disclosure statement will note these if relevant but will not explain them further.

The main areas of change to the original disclosure statement include:

- changes to how customary non-commercial fishing is regulated; and
- provision for limited ring net fishing in two high protection areas.

Part One: General Policy Statement

This Bill seeks to address the ongoing environmental decline of the Hauraki Gulf / Tīkapa Moana (the Gulf) due to human activities, as described in consecutive “State of our Gulf” reports.¹

New Zealand and international experts consider area-based marine protection to be one of the most effective methods for protecting marine life.

This Bill establishes the following marine protected areas in the Hauraki Gulf:

- 2 marine reserves;
- 5 seafloor protection areas; and
- 12 high-protection areas.

The Amendment Paper responds to feedback that the Bill may negatively impact on mana moana being able to carry out some customary non-commercial fishing in high protection areas and that the Bill will negatively impact some commercial fishing operator’s business.

Changes to clause 66 and removal of clause 67: The Amendment Paper amends the Bill so that customary non-commercial fishing is not within the scope of activities that can be regulated to give effect to biodiversity objectives developed under the Bill.

The introduced version of the Bill provided for biodiversity objectives to be developed collaboratively between the Crown and mana moana. It also provided for regulations to be developed to manage activities that could impact on the success of those biodiversity objectives. Customary non-commercial fishing was in scope of the activities that could be regulated. There were provisions that sought to minimise the impact to mana moana e.g. by ensuring that any regulation of customary non-commercial fishing could only be to the minimal extent reasonably necessary to give effect to the biodiversity objectives.

This amendment will mean that customary non-commercial fishing will be exercised under regulations made under section 186 and section 297 of the Fisheries Act 1996 made for the purpose of section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, or subpart 5 of Part 2 of the Fisheries (Amateur Fishing) Regulations 2013 only. Consequential amendments are made to clauses 5B, 19, and 66 to give effect to this. Clause 67 is removed as it is largely redundant in light of the changes to clause 66.

Insertion of clauses 19A, 67 (replacement of original clause 67), 68A and 68B: The Amendment Paper amends the Bill so that limited ring net fishing is provided for (clause 19A), a regulation-making power is provided for to regulate ring net fishing (clause 67), a three-year ministerial review of the ring net fishing provisions is provided for (clause 68A), and a power to amend or repeal ring net provisions in response to the review (clause 68B).

The introduced version of the Bill contains no reference to exempting any commercial fishing.

This amendment will mean that ring net fishing can occur in the Kawau Bay, and Rangitoto and Motutapu high protection areas, so long as conditions in the regulations are adhered to. This provision will be reviewed within three years of being implemented.

While a new general policy statement is not provided for these amendments to the Bill, DOC notes that the following aspects of the original generally policy statement are no longer relevant:

- the description of high protection areas which states that all commercial fishing would be prohibited; and

¹ Every 3 years, the Hauraki Gulf Forum, established under the Hauraki Gulf Marine Park Act 2000, produces a report on the state of the Hauraki Gulf environment and the initiatives by agencies for its protection and enhancement. See <https://gulfjournal.org.nz/state-of-the-gulf/>

- the description of customary non-commercial fishing that is provided for in high protection areas which states that it must align with biodiversity objectives for a site / cannot be contrary to any restrictions determined by biodiversity objectives for the site.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<i>Supplementary Analysis Report: Amendments to the Hauraki Gulf / Tīkapa Moana Marine Protection Bill</i> , Department of Conservation, (not available online as of 25 March 2025).	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The Supplementary Analysis Report did not meet the threshold for receiving an independent opinion on quality from the RIA Team based in the Ministry for Regulation.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES
There is limited information on the potential costs and benefits included in the Supplementary Analysis Report. There is low confidence in this analysis due to time and scoping limitations.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
Effective compliance will be necessary to minimise potential costs of these amendments to biodiversity outcomes.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The commitments New Zealand has made under the Convention on Biological Diversity (CBD) is relevant to this Bill. As part of New Zealand's commitments under the CBD, the government has set national targets that will contribute to global biodiversity targets under the CBD's Global Biodiversity Framework. No analysis has been done to determine how these amendments impact on meeting our national targets or contributing to the global targets.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

No consultation with mana moana has been carried out in relation to these amendments. Based on previous feedback, we anticipate mana moana to be supportive of the changes to how customary non-commercial fishing is provided for. Some mana moana publicly expressed opposition to the provision for ring net fishing.
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?
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NO

3.4.1. Was the Ministry of Justice consulted about these provisions?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?

YES

Limited consultation has occurred with the fishers that the ring net fishing provision applies to. Due to time constraints, no other external consultation was carried out on the amendments.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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