

In Confidence

Office of the Minister for Oceans and Fisheries

Cabinet Legislation Committee

Progressing the Māori Fisheries Amendment Bill

Proposal

- 1 I seek Cabinet's approval to proceed with the Māori Fisheries Amendment Bill (the Bill), which is currently awaiting second reading. [I also seek Cabinet's endorsement to two amendments relating to the process for appointing directors of Te Ohu Kaimoana, the trustee for the Fisheries Settlement, and the requirements for leasing Annual Catch Entitlements].

Relationship with Government priorities

- 2 This supports the government priorities of removing regulatory barriers and lifting New Zealand's productivity and economic growth to increase opportunities and prosperity for all New Zealanders.

Policy

- 3 The Bill will amend the Maori Fisheries Act 2004 (the Act) to give Mandated Iwi Organisations (MIOs), Recognised Iwi Organisations (RIOs) and Representative Māori Organisations (RMOs) more autonomy over their fisheries settlement assets.

Background

- 4 Under the 1992 Fisheries Deed of Settlement (the Fisheries Settlement), the Crown and Māori agreed to a full and final settlement of any claims by Māori to fisheries. The Act sets out a framework for the allocation and transfer of Fisheries Settlement assets to iwi, institutional arrangements, and a governance framework for managing the assets for current and future generations of Māori.
- 5 The Act requires an independent review of the Fisheries Settlement entities to be carried out no later than the eleventh year following the commencement of the Act.
- 6 As a result of the review in 2015 and extensive consultation with iwi, Te Ohu Kaimoana recommended a suite of changes with the intention of giving iwi a greater degree of rangatiratanga over their assets, reducing costs and improving efficiency. The Bill will give effect to 16 of the proposals that require legislative change.

- 7 The Māori Affairs Select Committee (Select Committee) reported back to the House on 7 July 2023 and the Bill is currently awaiting second reading. Select Committee supported the passage of the Bill, with the National Party submitting a differing view on one change relating to the appointment of Te Ohu Kaimoana directors. All other changes and the progression of the Bill received cross party support.

Outstanding matters

Role of RMOs in the appointment and removal of Te Ohu Kaimoana directors

- 8 Following Select Committee, Te Ohu Kaimoana raised concern about a change to the Bill relating to the role of RMOs that represent urban Māori.
- 9 Under the current Act, Te Kawai Taumata is the electoral-college system responsible for appointing and removing the directors of Te Ohu Kaimoana. Te Kawai Taumata consists of 11 members – ten members appointed by regional groupings of iwi and one member appointed by the seven RMOs.
- 10 The Bill, as introduced, proposed to remove the electoral college and enable MIOs and RIOs, but not RMOs, to directly appoint and remove directors on a one vote per iwi basis.
- 11 During Select Committee, some iwi groups expressed concern that the proposed change would diminish the role of RMOs. Select Committee deliberated on the role of RMOs and decided to update the Bill to enable them to continue to vote for Te Ohu Kaimoana directors.
- 12 Following Select Committee's decision, Te Ohu Kaimoana raised concerns that giving RMOs the ability to vote would not be in line with the change that iwi voted for through the review process. The reports presented to the Minister at the time of the review do not show explicit reference to removing RMOs ability to vote on Te Ohu Kaimoana directors, so it is unclear if iwi considered this at the time they voted on the changes.
- 13 [I intend to discuss this matter with the Minister for Māori-Crown Relations before making a decision about how to progress with this matter.]

Annual Catch Entitlement lease periods

- 14 I have heard from Moana New Zealand that some Māori fisheries businesses are having trouble acquiring loans for longer than five years due to constraints in the Act. In some cases, businesses have not been able to secure loans to renew their fishing fleet.
- 15 The Act currently provides that if MIOs want to lease ACE for longer than five years, they require 75 percent of iwi membership to agree, which can be onerous, and time consuming.

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- 16 The Bill amends the Act to enable MIOs to specify the length of time they wish to lease their ACE through their constitution. While this change enables iwi to specify a longer lease period, it can still be an onerous process for iwi to obtain agreement through their constitutions.
- 17 To remedy this, I propose to amend the Bill so that MIOs only need approval from their membership for leasing ACE longer than 10 years, this will provide certainty and make the process for leasing ACE iwi.
- 18 This change, alongside what is already in the Bill, will help ensure that Māori fishers are able to access capital to improve their fleets and have greater autonomy over their fisheries assets and business decisions. This is also in line with the changes that iwi voted for as part of the review of the Act.

Consultation

- 19 During the policy development of this Bill, my officials engaged with Inland Revenue Department, Te Arawhiti, Te Puni Kōkiri, Department of Internal Affairs, Ministry of Justice, Ministry Business Innovation and Employment, Crown Law Office, The Treasury and DPMC.
- 20 The Ministry for Primary Industries has worked with Te Ohu Kaimoana throughout the development of the Bill and consulted with Mandated Iwi Organisations, Recognised Iwi Organisations and Representative Māori Organisations on an exposure draft of the Bill in 2022.
- 21 Select Committee consulted on the Bill in 2023. As a result, they made a number of minor changes to the Bill to reflect feedback from submitters.
- 22 [To come: consultation with caucus and other parties represented in Parliament].

Timelines for progress

- 23 Following consultation with the Minister for Māori-Crown Relations, and subject to Cabinet's agreement to proceed with this Bill, I expect second reading will take place later this year.
- 24 The Bill holds a category 4 on the Government's 2024 Legislative Programme (to be passed by the end of 2024 if possible).
- 25 Once the Bill is enacted, it would come into force in two stages:
- 25.1 Two provisions come into force the day after Royal Assent.
- 25.2 The remaining provisions will come into force two years after Royal Assent, or on an earlier date appointed by Order in Council.
- 26 I consider that the Bill should be enacted as soon as possible. Passing these amendments into law will help Crown-Māori relations given the passage of time since iwi voted for these changes.

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Proactive Release

- 27 Following approval of this paper, I intend to release this paper with certain redactions in line with the Official Information Act 1982. I also intend to release some documents that provide context to the decisions reached in this paper on the Ministry of Primary Industries' website.

Recommendations

The Minister for Oceans and Fisheries recommends that the Committee:

- 1 **note** that the Māori Fisheries Amendment Bill (the Bill) holds a category 4 priority on the 2024 Legislation Programme (to be passed by the end of 2024 if possible);
- 2 **note** that the Bill amends the Maori Fisheries Act 2004 (the Act) to provide Mandated Iwi Organisations, Recognised Iwi Organisations and Representative Māori Organisations with greater autonomy over their fisheries settlement assets;
- 3 **note** that I intend to discuss the role of Representative Māori Organisations in the appointment of Te Ohu Kaimoana directors before making a decision on this matter;
- 4 **agree** that the Bill be amended to increase the lease periods for the Annual Catch Entitlement from five to 10 years to enable Māori fishers access to capital to support business ventures; and
- 5 **agree** that the Bill remain reinstated for the 54th New Zealand Parliament.

Authorised for lodgement

Hon Shane Jones
Minister for Oceans and Fisheries