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Tēnā koe

Waikato Regional Council Submission to the Hauraki Gulf/Tikapa Moana Marine Protection Bill

Thank you for the opportunity to submit on the proposed Hauraki Gulf/Tikapa Moana Marine Protection Bill. Please find attached the Waikato Regional Council's (the council's) submission, formally endorsed by the council's Strategy and Policy Committee on **1 November 2023**.

Should you have any queries regarding the content of this document please contact Joao Paulo Silva, Senior Policy Advisor, Policy Implementation directly on (07) 9497179 or by email joapaulo.silva@waikatoregion.govt.nz.

Nāku iti noa, nā,

A handwritten signature in black ink, appearing to be "Tracey May". The signature is written in a cursive, flowing style.

Tracey May
Director Science, Policy and Information

Submission from Waikato Regional Council on the Hauraki Gulf/Tikapa Moana Marine Protection Bill

Introduction

1. We appreciate the opportunity to make a submission on the Hauraki Gulf/Tikapa Moana Marine Protection Bill (the Bill).¹ We look forward to continued involvement in any future processes to develop this Bill or any related secondary legislation.
2. Waikato Regional Council (the council) recognises that the Bill will provide greater protection to the Hauraki Gulf (the Gulf) by increasing the extent of marine protection areas from 6.7% to over 18%. The new protection areas will create a more effective network of marine protection. This will result in positive biodiversity outcomes and contribute to the goal of restoring the overall health and mauri of the Gulf.
3. The council commends the work undertaken for establishing the new protection areas and considers that the Bill is the most significant output from *Sea Change – Tai Timu Tai Pari: Hauraki gulf Marine Spatial Plan 2017 (Sea Change)* to date. The council supports the Bill. However, we make general comments and suggestions for improvements concerning specific provisions.

Summary

4. The council:
 - a) Supports the Bill.
 - b) Supports the new protection areas, including new areas in the Waikato region.
 - c) Commends the approach for protecting customary rights and highlights the need to keep a collaborative and balanced approach with iwi, Māori, and hapu.
 - d) Recommends a mechanism for enabling new protected areas for helping to achieve the 30% marine protection target under the United Nations Convention on Biological Diversity.
 - e) Makes suggestions for improvements concerning specific provisions (table 1).
 - f) Recommends that the Bill should provide for Special Management Areas (SMAs).

General comments

The provisions in the Bill are broadly consistent with the recommendations from *Sea Change* which had wide agency, cross-sectoral, iwi and public support. The council supports establishment of the high protection areas as set out in the Bill, using both Highly Protected Areas (HPAs) and Special Management Areas (SMAs) as measure to achieve protection of high biodiversity values. We also support creating 5 seafloor protection areas (SPAs) as set out in the Bill to help address the negative impacts of activities that damage important biogenic habitats in the Hauraki Gulf. We also support creating the two new marine protection areas. The council also supports the activities identified as prohibited in HPAs and SPAs.

5. We commend the approach taken to protect customary rights, but we recommend a continued dialogue with iwi, Māori and hapu. The challenge is to balance preserving these rights for tangata whenua, and promoting biodiversity.
6. Council notes that the introduction of legislation needs to be cognisant of impacts on the wellbeing of our communities. The ability to enjoy all that Tikapa Moana has, and sustains from an environmental, cultural, social and economic wellbeing perspective is an important consideration.

Protection areas within the Waikato region

7. The council acknowledges that seven of the new proposed protection areas are within the Waikato region, some adjoining land and some in the coastal marine area (CMA) - those being: five HPAs, one SPA and the extension of the Cathedral Cove marine reserve:
 - Motukawao Islands – High Protection Area
 - Cape Colville – High Protection Area

¹ [Hauraki Gulf / Tikapa Moana Marine Protection Bill \(bills.parliament.nz\)](https://bills.parliament.nz)

- Cape Colville – Seafloor Protection Area
- Whanganui-a-Hei (Cathedral Cove) Marine Reserve
- Aldermen Islands / Te Ruamāhua (north) – High Protection Area
- Aldermen Islands / Te Ruamāhua (south) – High Protection Area
- Slipper Island / Whakahau – High protection area.

8. The council supports the new proposed protection areas within the Waikato region. The HPAs will have the potential to protect, restore, and enhance biodiversity while the SPAs have the potential to maintain and restore benthic habitats. We commend the approach and anticipate that once the management of these areas is tested, further areas can be assessed to increase marine protection. Although 18% of protected areas are a significant improvement from 6.7% (or 0.3% if considering the 6 current marine reserves), we consider that this is still falling short from achieving the 30% marine protection target (Target 3) under the United Nations Convention on Biological Diversity (CBD). We recommend providing a pathway in the Bill to enable addition of new protected areas.
9. The council supports the Whanganui A Hei (Cathedral Cove) Marine Reserve. Marine reserves are a very effective way of protecting marine life and habitats. We acknowledge that this is an extension of the existing marine reserve, and subject to the same rules and provisions currently operating, and also subject to the same compliance and enforcement regime.
10. The council recommends that the Bill should make use of Special Management Areas (SMAs) as were proposed through the *Sea Change* community collaboration process Council believes that SMAs should be empowered through the Bill as these could be used more broadly to achieve better protection for the Gulf where HPAs and SPAs are not as efficient i.e., SMAs could provide for larger areas of protection than a HPA or a SPA. We consider that the HPAs are static tools with a specific focus in a determined area. Having a more far reaching, flexible and adaptable tool such as a SMA would better provide for environmental protection and restoration of the Gulf.
11. Council believes that SMAs better provide for evidence based conversations that include local communities, iwi and other stakeholders. HPAs are viewed as a ‘blunt’ instrument that whilst helpful have limited flexibility and responsiveness. Tikapa Moana has already seen the benefits of using a SMA approach to assist in the management of marine protection, recent examples being applied to Opito Bay scallop fishery (2021) and Pink Mao Mao/Fin Fish Bag Limits (2022). We have seen the benefits of involving all in the conversation, having an instrument that is scalable and one that has been well canvassed by the community, and ultimately becomes owned by the community.
12. Council urges the reconsideration of using HPA areas only, and encourages a more nuanced approach to be applied in the Bill. Further, SMAs could be used as buffer areas around HPAs, SMAs and MPAs to provide better protection. SMAs can also be used as high-value tourism areas, community/mana whenua-led areas, seabird protection areas, biosecurity zones, etc. In addition, we consider that in general SMAs could provide for a more dynamic response to specific parts of the Hauraki Gulf.

Comments on specific provisions

13. Table 1 below provides the council’s comments on specific provisions:

Clauses	Comments and recommendations
21(d)	<p>We recommend widening Clause 21(d) to include any discharges if it is a permitted activity for the purposes of the RMA.</p> <p>We understand that (d) provides an allowance for stormwater discharges for the purposes of the RMA. However, we consider it appropriate for (d) to be widened to include any discharges if it is a permitted activity for the purposes of the RMA. Currently the Waikato Coastal Plan has Minor Discharges of Water as a permitted activity and we consider it to be onerous to require those activities to obtain permits under the new Bill, and it seems</p>

	inconsistent that stormwater would be excused from the prohibitions but no other equally or more benign discharges.
27(1)	<p>We recommend reassessing the terminology and using a more appropriate mechanism for activities that might still be allowed through the permissions pathway.</p> <p>We consider it inappropriate to have a pathway to undertake prohibited activities. If there are reasons for allowing these activities to take place, we consider it more appropriate to have a different mechanism and not refer to these activities as ‘prohibited’. For example, under the RMA there is no consenting pathway for prohibited activities but there is a consenting pathway for ‘non-complying’ activities.</p>
41(3) to (5), 42(3) and 43(3)	<p>We recommend that the Bill should provide a mechanism to update the fine values in the future accounting for inflation and/or other economic indicators.</p> <p>The clauses set rigid values for fines. Without updating, these values will effectively diminish over time, and there is a risk they will not act as sufficient deterrents in the future.</p>
65(e), (f) and (g)	<p>We recommend that the Bill provides a mechanism to update these values in the future accounting for inflation and/or other economic indicators.</p> <p>The clause sets rigid values for infringement fees. Without updating, these values will effectively diminish over time, and there is a risk they will not act as sufficient deterrents in the future.</p>
Clause 68	<p>We recommend having a more dynamic review of the Bill.</p> <p>The State of the Gulf reports² details how climate change impacts and cumulative impacts from activities on land and at sea are rapidly changing the environment. We consider that 25 years is too long for a review of this legislation, and the individual areas (HPAs, SPAs, MRs and SMAs) need more regular reviews and adaptation to changing circumstances. Climate change impacts may force the re-shaping of some of these zones in the mid-term.</p>

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² [STATE OF THE GULF | Hauraki Gulf Forum STATE OF THE GULF \(gulfiournal.org.nz\)](http://STATE OF THE GULF | Hauraki Gulf Forum STATE OF THE GULF (gulfiournal.org.nz))