



To: Hon Dr Nick Smith, Minister for the Environment

Date: 14 Sep
2015
Tracking #: 15-
01590

Talking points: EGI meeting 16 September 2015 - draft consultation document on the Government's proposed approach to reform in New Zealand's marine protection framework

Purpose

1. This briefing note provides you with talking points for the Economic Growth and Infrastructure (EGI) cabinet committee meeting on 16 September 2015.
2. The talking points relate to the cabinet paper on the Government's proposed approach to reform New Zealand's marine protection framework. The paper seeks agreement to share the Government's draft consultation document on marine protection reform with the Iwi Leaders' Group.
3. If cabinet approval is given, a consultation and communications plan will be finalised by officials before public consultation on the proposed reforms begins. We aim to seek your input into this plan before it is finalised.

Talking points

Marine protection - the current situation

- New Zealand's marine protection regime is no longer fit for purpose and needs refreshing. In particular:
 - the current marine protection tools are split across different legislation, and do not work together in a co-ordinated way
 - consultation and decision-making processes are overly long, costly and can be divisive
 - consideration of the effects on existing and future uses is inadequate, potentially limiting the sustainable growth of the marine economy.
- These shortcomings were recognised in the National Party's 2014 Policy, released before the 2014 general election.

A new approach

- We propose to replace the Marine Reserves Act and introduce a new MPA Act.

- Under the proposed approach the MPA Act will provide for four categories of marine protection (marine reserves, species-specific sanctuaries, seabed reserves, and recreational fishing parks).
- There will be no change to the levels of protection provided by a range of existing protection tools, but where necessary these tools will be transitioned into the new regime.

Key issues

Oil, gas and mineral extraction

- No category of marine protected area (MPA) will be established in areas where there are petroleum or mineral mining, prospecting or exploration permits for the life of the permit, unless the permit holder agrees.

Decision making and economic considerations

- There will be an improved decision-making process which will ensure that the economic impact of a proposed MPA will be fully taken into account before Ministers make decisions on the location, scale and level of protection of MPAs.
- In particular, the economic impacts of a proposed MPA will be addressed through:
 - relevant Ministers being involved in decisions on which MPA proposals go through the consultation and information-gathering process, and which recommendations on MPAs are implemented
 - requiring an economic impact assessment
 - requiring MPA proposals to meet information criteria specified in the MPA Act.

Compensation for commercial fishing only

- As Ministers have stated publically if quota owners are unduly impacted on by establishment of a recreational fishing park, they will be compensated. An assessment of the impact will occur through an adapted Undue Adverse Effects test.
- Whether, and what amount of compensation may be payable will be determined on a case by case basis. Compensation will not be paid to quota owners in relation to the establishment of the other three categories, as these will be created for sustainability purposes.

Treaty/Māori issues

- We propose that the new MPA Act will provide for a robust Treaty clause that is consistent with current levels of statutory recognition of Treaty of Waitangi obligations and responsibilities.
- An improved role for Māori in the management and governance of MPAs will be provided for. We envisage proposed engagement with iwi leaders will provide useful input, into developing this approach.
- Customary fishing tools will remain in place, and be able to operate in all categories, except marine reserves.

Next steps

- If approval is given we aim to engage with iwi leaders on the content of the consultation document. A 4-5 week engagement period with iwi leaders is proposed.
 - We aim to report back to EGI and cabinet following iwi leaders' engagement. Because of the national importance of this work we believe a significant consultation programme is needed, after discussions with iwi leaders.
 - We aim to finalise the consultation and communication plan with input from relevant Ministerial colleagues and their officials.
 - Our intention is to release the consultation document in 2015.
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