



PROACTIVE RELEASE COVERSHEET

Minister	Hon Penny Simmonds	Portfolio	Environment
Name of package	Agreement to discharge the Kermadec Ocean Sanctuary Bill	Date to be published	10 June 2024

List of documents that have been proactively released

Date	Title	Author
25 March 2024	Cabinet paper: Agreement to discharge the Kermadec Ocean Sanctuary Bill from the Order Paper	Minister for the Environment
20 March 2024	ECO-24-MIN-0029 - Cabinet Economic Policy Committee Minute of Decision	Cabinet Office

Information redacted YES

Summary of reasons for redaction

Some information has been withheld from the Cabinet Paper and ECO-24-MIN-0021 under:
- Section 9(2)(h) of the Official Information Act to maintain legal professional privilege.

In-Confidence

Office of the Minister for the Environment
Chair, Cabinet Economic Policy Committee

Agreement to discharge the Kermadec Ocean Sanctuary Bill from the Order Paper

Proposal

- 1 This paper seeks Cabinet's agreement to discharge the Kermadec Ocean Sanctuary Bill 2016 (the Bill) from the Order Paper.

Background

- 2 The Kermadec region comprises approximately 620,000 square kilometres of ocean around the Kermadec Islands. It is part of New Zealand's Exclusive Economic Zone (EEZ) and spans the same area as Fisheries Management Area 10 (FMA 10) under the Fisheries Act 1996. It is one of the most pristine marine environments in the world and an area of significant biodiversity value.
- 3 In 2015, the then Government announced its intent to protect this area by establishing a sanctuary and, in doing so, contribute to a network of large-scale ocean sanctuaries in the Pacific.
- 4 A bill to establish an ocean sanctuary in the Kermadec area was introduced to Parliament on 8 March 2016 and was reported back by the (then) Local Government and Environment Select Committee. The Bill was not progressed to a second reading, given significant opposition from iwi and litigation against the Bill, reflecting:
 - 4.1 the lack of engagement with iwi prior to its introduction, and
 - 4.2 that enactment of the Bill would result in the inability to make use of fishing rights under the 1992 Fisheries Deed of Settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 provided as redress to iwi/Māori in settlement of their commercial fishing claims.¹
- 5 The last Government worked with Te Ohu Kaimoana (Te Ohu)² and engaged with Ngāti Kuri and Te Aupōuri leaders³ to develop a revised proposal to amend the Bill. Some 42 of 45 iwi organisations attending a Te Ohu special general meeting on 13 June 2023 rejected the revised proposal.
- 6 Te Ohu informed the then Government that iwi present at the special general meeting opposed the proposal "for a range of reasons, but primarily that they individually and

¹ Te Ohu, on behalf of mandated iwi organisations, holds fishing quota allocated under the Fisheries Act 1996 solely for the Kermadec area (also known as Fisheries Management Area 10).

² Te Ohu Kaimoana is the Māori fisheries organisation that, amongst other things, acts as trustee for fishing quota held by mandated iwi organisations.

³ The Bill provides for Ngāti Kuri and Te Aupōuri to each nominate 1 person to be appointed to a Conservation Board to be established for the Kermadec area.

collectively consider[ed] that the proposal [did] not provide necessary protection to the rights guaranteed in the 1992 Fisheries Deed of Settlement as signed by Māori and the Crown". Following the vote by iwi, the last Government did not progress changes to the Bill.

- 7 On 6 December 2023 the House resolved to reinstate all bills on the Order Paper at the conclusion of the last Parliament. The Leader of the House, the Hon Chris Bishop, noted that a subsequent decision would be made on whether a bill was retained or discharged. The Leader of the House requested advice from responsible Ministers on the retention or discharge of bills reinstated on the Order Paper.

Discharge of the Bill

- 8 I propose that the Bill is discharged from the Order Paper and that I direct my officials not to do any further work on the sanctuary proposal. I have consulted with the Minister for Oceans and Fisheries and the Minister of Conservation who both agree with this proposal. I have also informed the Leader of the House of my advice.
- 9 I consider that discharge of the Bill, and not proceeding with establishing a sanctuary in the Kermadec area, poses limited risk to the marine environment, as few activities (including fishing) are currently happening in the area, given the logistics associated with the distance from mainland New Zealand and regulations that prohibit the use of bottom impact fishing methods in the proposed sanctuary area⁴.
- 10 While retention of the Bill on the Order Paper would leave open the ability to progress proposals to protect the Kermadec area, I consider that the Bill, as reported back by Select Committee, would require significant changes to adequately address the impact on existing property rights recognised by the 1992 Fisheries Settlement.

Risks

- 11 Discharge of the Bill is likely to attract public criticism and media attention, especially given the support of environmental groups for a sanctuary and any perception of the weakening of the Government's commitment to global biodiversity protection targets.
- 12 As a Party to the Kunming-Montreal Global Biodiversity Framework (GBF), New Zealand is expected to submit an updated or revised National Biodiversity Strategy and Action Plan that contains national targets, actions, and monitoring indicators, ahead of the Conference of Parties currently scheduled for October 2024. The global marine protection target under the GBF is for 30% of oceans to be protected globally by 2030. (The proposed sanctuary would have covered some 15% of New Zealand's exclusive economic zone.)
- 13 The Minister of Conservation is receiving advice from officials on New Zealand's response to the global targets under the GBF.

s9(2)(h)

14 s9(2)(h)

⁴ The Fisheries (Benthic Protection Areas) Regulations 2007 established 17 benthic protected areas, including for the entire Kermadec area, in which the use of bottom trawl nets and dredges are prohibited.

s9(2)(h)

15 s9(2)(h)

16 s9(2)(h)

Consultation

17 The Ministry for Primary Industries, the Department of Conservation, and the Office of Māori Crown Relations: Te Arawhiti contributed to the development of advice on discharge of the Bill. The Department of Prime Minister and Cabinet and Crown Law was informed of this paper.

Communications

18 Given widespread interest in the Bill, domestically and internationally, including from those with rights or interests affected by the Bill, I propose to release a press statement, in conjunction with the Minister for Oceans and Fisheries, the Minister of Conservation and the Leader of the House, on any decision to discharge the Bill.

19 I have communicated the Government's intention to discharge the Bill to the Chairs of Te Ohu, Ngāti Kuri, and Te Aupōuri, given their interests and close involvement with proposals to date to amend the Bill. In doing so, I indicated my colleagues and I would welcome the opportunity to meet and hear their views on next steps. I will liaise with the Minister for Oceans and Fisheries and the Minister of Conservation prior to any future meeting.


Proactive Release

20 I propose to release this paper proactively on the Ministry for the Environment's website within 30 business days of final decisions being taken by Cabinet, subject to any redactions as are appropriate under the Official Information Act 1982.

Recommendations

The Minister for the Environment recommends that Cabinet:

- 1 **note** that the Kermadec Ocean Sanctuary Bill was introduced to Parliament on 8 March 2016
- 2 **note** that the Bill awaits a second reading following report back by the (then) Local Government and Environment Select Committee
- 3 **note** that on 6 December 2023 the House resolved to reinstate all bills on the Order Paper at the conclusion of the last Parliament

- 4 **note** that the Leader of the House requested advice from responsible Ministers on the retention or discharge of reinstated bills
- 5 **note** that current activities pose limited risk to the marine environment in the Kermadec region given the marine reserve around the Kermadec Islands and regulations that prohibit the use of bottom impact fishing methods that are in place
- 6 s9(2)(h) 
- 7 **agree** to discharge the Bill from the Order Paper
- 8 **note** that the Minister for the Environment will direct officials not to do any further work on the sanctuary proposal
- 9 **note** that, subject to Cabinet agreement, and after consulting with the Leader of the House, the Minister for the Environment will inform the Clerk of the House of a decision to discharge the Bill
- 10 **note** that discharge of the Bill will be of media and public interest
- 11 **agree** that the Minister for the Environment, in consultation with the Minister for Oceans and Fisheries, the Minister of Conservation and the Leader of the House, will release a press statement in conjunction with discharge of the Bill
- 12 **note** that the Minister for the Environment will liaise with the Minister for Oceans and Fisheries and the Minister of Conservation prior to any meeting with iwi or Te Ohu Kaimoana to hear their views about the Kermadec area
- 13 **agree** to the proactive release of this paper within 30 business days of final decisions being taken by Cabinet

Authorised for lodgement

Hon Penny Simmonds

Minister for the Environment



Cabinet Economic Policy Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Kermadec Ocean Sanctuary Bill: Agreement to Discharge

Portfolio **Environment**

On 20 March 2024, the Cabinet Economic Policy Committee:

- 1 **noted** that the Kermadec Ocean Sanctuary Bill (the Bill) was introduced to Parliament on 8 March 2016;
- 2 **noted** that the Bill awaits a second reading following the select committee's report back;
- 3 **noted** that on 6 December 2023, the House resolved to reinstate all bills on the Order Paper at the conclusion of the last Parliament;
- 4 **noted** that the Leader of the House requested advice from responsible Ministers on the retention or discharge of reinstated bills;
- 5 **noted** that current activities pose limited risk to the marine environment in the Kermadec region given the marine reserve around the Kermadec Islands and regulations that prohibit the use of bottom impact fishing methods that are in place;
- 6 s9(2)(h) [REDACTED]
- 7 **agreed** to discharge the Bill from the Order Paper;
- 8 **noted** that the Minister for the Environment will direct officials not to do any further work on the sanctuary proposal;
- 9 **noted** that, after consulting with the Leader of the House, the Minister for the Environment will inform the Clerk of the House of a decision to discharge the Bill;
- 10 **noted** that discharge of the Bill will be of media and public interest;
- 11 **noted** that the Minister for the Environment will work with the Prime Minister's office, the Leader of the House, Minister for Oceans and Fisheries, and Minister of Conservation on a communications approach;

- 12 **noted** that the Minister for the Environment will liaise with the Minister for Oceans and Fisheries and the Minister of Conservation prior to any meeting with iwi or Te Ohu Kaimoana to hear their views regarding the Kermadec area.

Rachel Clarke
Committee Secretary

Present:

Rt Hon Christopher Luxon
Rt Hon Winston Peters
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Simeon Brown
Hon Erica Stanford
Hon Judith Collins
Hon Todd McClay
Hon Tama Potaka
Hon Matt Doocey
Hon Melissa Lee
Hon Simon Watts
Hon Penny Simmonds
Hon Chris Penk
Hon Andrew Bayly
Hon Andrew Hoggard
Simon Court MP
Jenny Marcroft MP

Officials present from:

Office of Hon Andrew Bayly
Officials Committee for ECO