



House of Representatives

Supplementary Order Paper

Thursday, 17 February 2000

Hauraki Gulf Marine Park Bill

Proposed amendments

Hon Sandra Lee, in Committee, to move the following amendments:

Preamble

To omit from line 28 of page 2 the word "has", and substitute the word "have".

New clause 1A

To insert, after *clause 1* on page 3, the following clause:

1A Purpose

The purpose of this Act is to—

- (a) integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
- (b) establish the Hauraki Gulf Marine Park:
- (c) establish objectives for the management of the Hauraki Gulf, its islands, and catchments:
- (d) recognise the historic, traditional, cultural, and spiritual relationship of the tangata whenua with the Hauraki Gulf and its islands:
- (e) establish the Hauraki Gulf Forum.

Clause 2

To omit from line 10 of page 4 the word "waters", and substitute the word "water".

To insert in line 28 on page 5, after the words " 'Hauraki Gulf' or 'Gulf' ", the words "(which is generally referred to by Maori by the names Tikapa Moana and Te Moananui a Toi)".

Clause 4

To omit this clause from page 7, and substitute the following clause:

4 Treaty of Waitangi (Te Tiriti o Waitangi)

- (1) Subject to **subsections (2) and (4)**, the provisions of **Part 3** relating to the Park must be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- (2) **Subsection (1)** does not apply in respect of any area of the Park that is foreshore, seabed, private land, taiapure-local fishery, or mataitai.
- (3) When carrying out its functions under **Part 2**, the Forum must have regard to the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).
- (4) Nothing in **Part 1 or Part 3 or Part 4** limits, affects, or extends the obligations any person has in respect of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) under any of the Acts listed in **Schedule 1**, and those obligations must be fulfilled in accordance with those Acts.

Clause 8(1)(h)

To omit from line 8 on page 12 the expression “section 6”, and substitute the expression “section 4”.

Clause 11

To omit from line 38 on page 12 the words “the Crown’s”, and substitute the word “any”.

To add the following subclause:

- (3) Nothing in this section limits or affects any remedy associated with any claim referred to in **subsection (2)**.

Clause 12(c)

To omit from line 33 on page 13 the word “the” (where it appears before the words “tangata whenua”).

Clause 14

To insert in paragraph (f) of subsection (1) in line 11 on page 16 the word “the” before the words “tangata whenua”.

To omit from line 33 on page 16 the word “the” (where it appears before the words “tangata whenua”).

Clause 15

To omit this clause from page 17.

Clause 16B(1)(b)

To omit from line 24 on page 18 the word “the” (where it appears before the words “tangata whenua”).

Clause 17

To omit this clause from page 19, and substitute the following clause:

17 Forum to be joint special committee

- (1) Subject to **section 20B**, the Forum is to be treated as a joint special committee of the constituent local authorities

appointed under section 114S of the Local Government Act 1974.

- (2) Except as provided in **subsection (3)**, Part VA of the Local Government Act 1974 applies with any necessary modifications to the Forum.
- (3) Sections 114C to 114E, 114G, 114K, 114M, 114P(1) and (3), 114Q, and 114S(2), (4), and (5) of the Local Government Act 1974 do not apply, and section 114U of the Local Government Act 1974 applies only to representatives appointed by local authorities.
- (4) The Forum may appoint such subcommittees as it considers appropriate.

Clause 18(1)

To omit from line 6 on page 20 the word “the” (where it appears before the words “tangata whenua”).

Clause 20

To omit from line 3 on page 21 the word “the” (where it appears before the words “tangata whenua”).

New clause 20B

To insert, after *clause 20A* on page 21, the following clause:

20B Appointment and functions of administering authority

- (1) The constituent parties may, from time to time by agreement with the appointee, appoint 1 of their number to be the administering authority for the purposes of this Part for a period of no less than 3 years.
- (2) If, at the first meeting of the Forum or at the first meeting of the Forum after the term of an appointment of an administering authority has expired, the constituent parties fail to make an appointment, the Minister must appoint 1 of the constituent parties to be the administering authority.
- (3) A constituent party appointed as the administering authority may be reappointed.
- (4) The administering authority must—
 - (a) administer and service the Forum; and
 - (b) ensure as far as practicable that the functions, powers, and duties set out in this Part are carried out.
- (5) For administrative purposes, the Forum is to be treated as a committee of the administering authority.

Clause 21

To omit from subclause (1) in line 3 on page 22 the word “the” (where it appears before the words “tangata whenua”).

To omit paragraph (b) of subclause (1) on page 22, and substitute the following paragraph:

- (b) after agreement between the Minister and tangata whenua representatives, made before any costs are incurred, actual and reasonable communication costs

and consultation costs incurred in the course of their work as tangata whenua representatives on the Forum.

To insert, after subclause (1) (after line 12 on that page), the following subclause:

- (1A) If there is no agreement between the Minister and tangata whenua representatives under **subsection (1)(b)**, the Minister may make such payment to tangata whenua representatives as the Minister considers appropriate in the circumstances.

Clause 24(c)

To omit from line 26 on page 23 the word “the” (where it appears before the words “tangata whenua”).

Clause 25

To add the following subclauses:

- (5) Despite **subsection (4)**, the land described in **Part 1 of Schedule 4** that, at the commencement of this section, is held as a reserve and is used for defence purposes—
- (a) must be held, and treated as classified, as an historic reserve under section 18 of the Reserves Act 1977; and
 - (b) must be treated as included in the Park under **subsection (2)(a)**.
- (6) If the land or any part of the land described in **Part 2 of Schedule 4** that, at the commencement of this section, is held as a reserve and is used for defence purposes, is no longer required for defence purposes, the land—
- (a) must be held, and treated as classified as a recreation reserve under section 17 of the Reserves Act 1977; and
 - (b) must be treated as included in the Park under **subsection (2)(a)**.
- (7) Despite any provision of the Defence Act 1990 and **subsection (6)**, the Minister of Defence may administer and manage the land or any part of the land in **Part 2 of Schedule 4** jointly with the Commissioner or an administering body for the purposes of the Park as if it were a recreation reserve under section 17 of the Reserves Act 1977.
- (8) For the purposes of **subsection (7)**, **Commissioner** has the same meaning as in section 2 of the Reserves Act 1977.

Clause 26(1)

To insert in line 12 on page 26, after the word “land”, the word “located”.
To omit from line 13 on page 26 the word “specified”, and substitute the word “described”.

Clause 27(1)

To insert in line 30 on page 27, after the word “land”, the word “located”.
To omit from line 31 on page 27 the word “specified”, and substitute the word “described”.

Clause 30B(a)

To insert in line 9 on page 32, after the word “seabed”, the words “or reclamation”.

Clause 31

To omit from lines 32 to 34 on page 32 the words “Upon lodgement of a *Gazette* notice made in accordance with **section 31** or **section 34** with a District Land Registrar, that Registrar”, and substitute the words “The Registrar-General of Land”.

Clause 33

To omit from subclause (1) in line 9 the word “status”.

To omit from subclause (1) in line 12 on page 33 the words “with an iwi”, and substitute the words “tangata whenua”.

To omit subclause (3) on page 33.

To omit from paragraph (a) of subclause (4) in line 23 the word “Minister’s”, and substitute the word “Crown’s”.

To omit from paragraph (c) of subclause (4) in line 28 on page 33 the words “other iwi”, and substitute the word “others”.

To omit from paragraph (d) of subclause (4) in line 32 the word “Minister”, and substitute the word “Crown”.

Clause 34

To omit from line 39 on page 33 the word “Minister”, and substitute the word “Crown”.

Clause 36

To omit this clause from page 34, and substitute the following clause:

36 Other Deeds of Recognition

Where the Crown or local authority has entered into a Deed of Recognition for an area with tangata whenua, that Deed of Recognition does not prevent the Crown or local authority from entering into further Deeds of Recognition for that area made with other tangata whenua who may have an historic, traditional, cultural, and spiritual relationship with that area.

Clause 37

To omit from line 34 on page 34 the word “Minister”, and substitute the word “Crown”.

New Schedule 4

To add the following schedule:

Schedule 4 s 25(5), (6)
Description of HMNZS Tamaki Reserve

Part 1
Defence Land Held as Historic Reserve

All that land comprising 2.7755 hectares, more or less, being
Section 3, SO Plan 69845.

Part 2

Land Held as Reserve for Defence Purposes

All that land comprising 8.2103 hectares, more or less, being
Section 1 and Section 2, SO Plan 69845.

Explanatory note

This Supplementary Order Paper replaces SOP No. 1 and contains minor technical amendments and the following substantive amendments to the Bill:

- *Clause 1A* relates to changes in the format of legislation.
- *Clause 2* inserts the Maori names for the Hauraki Gulf.
- *Clause 4*, which preserves the obligations of persons in respect of the Treaty of Waitangi under the Acts listed in *Schedule 1*, is redrafted in a more positive form and incorporates *clause 15* (the obligation of the Forum to have regard to the principles of the Treaty).
- *Clause 11*, which preserves existing rights in respect of the Hauraki Gulf Marine Park, is amended to ensure that it does not affect remedies available to claimants.
- *Clause 15* is omitted as reference to the need to have regard to the principles of the Treaty of Waitangi is included in *Clause 4*.
- *Clause 17* provides that this clause is subject to *clause 20B* and removes incorrect section references in relation to the Local Government Act 1974 and substitutes the correct section references.
- *New clause 20B* is inserted to provide for an administering authority to administer and service the Forum.
- *Clause 21*, which relates to the payment of tangata whenua representatives of the Forum, is amended to enable the Minister to fix the level of payment in the absence of an agreement with the representatives.
- *Clause 25* is amended and *Schedule 4* is added to set apart certain land in the Park that is presently used for defence purposes.
- *Clause 30B* enables the Minister of Conservation to remove a reclamation from the Park.
- *Clause 33* omits references to iwi and extends the ability of the Crown and local authorities to enter into Deeds of Recognition.
- *Clause 36* amendments are consequential to the amendments to *clause 33*.