



Cabinet Economic Growth and Infrastructure Committee

EGI Min (11) 11/11

Copy No: 47

Minute of Decision

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Aquaculture Reform: Maori Commercial Aquaculture Claims Settlement: Final Recommendations

Portfolio: Fisheries and Aquaculture

On 8 June 2011, the Cabinet Economic Growth and Infrastructure Committee (EGI):

Background

- 1 noted that on 25 August 2010, EGI:
 - 1.1 noted that the Maori Commercial Aquaculture Claims Settlement Act 2004 settled claims to new aquaculture space by providing iwi with authorisations for 20 percent of space created, through the establishment of Aquaculture Management Areas;
 - 1.2 noted that the new aquaculture regime will remove the requirement to establish Aquaculture Management Areas, and will not provide for authorisations, which are the key elements for settling claims to new space under the Act;
 - 1.3 noted that the Crown is not seeking to renegotiate the aquaculture settlement with iwi, but that a new mechanism is needed to deliver the settlement obligation in relation to new space;
 - 1.4 agreed to discussions between the Crown and iwi to identify new mechanisms for the delivery of the settlement;
 - 1.5 invited the Minister of Fisheries and Aquaculture to report back to EGI with a proposal to deliver the Maori commercial aquaculture settlement;

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Proposed solution

- 2 agreed that the Maori commercial aquaculture claims settlement be delivered on a regional basis through regional agreements, which may include cash, space, a combination of cash and space, or anything else that can be agreed between the Crown and iwi, to the value of 20 percent of new space within the region;

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- 4 **noted** that a methodology will be developed to value the projected new space within each region based on the methodology that was used for the pre-commencement space;
- 5 **noted** that regional agreements may allow for staged release of the settlement to ensure that forecasts used in the settlement align with the actual allocations of aquaculture space, and to encourage iwi support for aquaculture growth;
- 6 **noted** that regions will be prioritised into two stages for the negotiation of regional agreements:
- 6.1 stage 1: Northland, Waikato East (Coromandel), Tasman, and Marlborough;
- 6.2 stage 2: the remaining regions;
- 7 **agreed** that, if a regional agreement has not been entered into after two years for stage 1 or after three years for stage 2 from the commencement of the legislation, the aquaculture settlement will be delivered through allocation to the trustee on behalf of iwi of the region of either:
- 7.1 any settlement authorisations obtained for settlement purposes, together with a cash payment to redress any shortfall in value; or
- 7.2 where the above is impractical, a cash equivalent of the forecast new space within the region;
- 8 **agreed** that the Minister of Fisheries and Aquaculture may extend the timeframe for reaching a regional agreement if there is merit in doing so in accordance with the considerations specified in the strategy for negotiating regional agreements;
- 9 **agreed** that the two year timeframe to reach a regional agreement in those regions where no or little aquaculture development is anticipated will start from the date of receipt of the first resource consent application for aquaculture after the commencement of the new legislation;
- 10 **agreed** to create a power to enable the Minister of Fisheries and Aquaculture to gazette space based on forecasted information for the purpose of delivering the settlement, by placing a notice in the *New Zealand Gazette*;
- 11 **agreed** that the Minister of Fisheries and Aquaculture may create settlement authorisations as settlement redress within the gazetted space;
- 12 **agreed** that consenting authorities may not accept any applications for aquaculture activities for space subject to a gazette notice;
- 13 **agreed** that the Minister of Fisheries and Aquaculture be required to consult the Minister of Conservation prior to gazetting space to support delivery of the aquaculture settlement;
- 14 **agreed** that, where regional councils or the Crown create an aquaculture zone or use alternative allocation tools, such as tendering in high demand areas:
- 14.1 they must notify the Crown;
- 14.2 the Crown may require that authorisations relating to 20 percent representative space be set aside in order to deliver the settlement;

- 15 **authorised** a group of Ministers, comprising the Minister of Finance, the Attorney-General, the Minister of Fisheries and Aquaculture, the Minister of Conservation and the Minister of Maori Affairs, to approve a negotiation strategy to settle the Crown's new space obligation;
- 16 **directed** officials to report to the group of Ministers referred to above, as part of the negotiating strategy and before seeking to access the contingency funding, with advice on what costs may be considered appropriate in providing space, and how to respond in situations where the costs of providing space might exceed that of a straight cash settlement;
- 17 **invited** the Minister of Fisheries and Aquaculture to report back to EGI in May 2012 on progress with the delivery of the settlement;

Miscellaneous legislation amendments

- 18 **agreed** that the existence of a settlement authorisation within a Customary Marine Title application area may not be considered evidence against the relevant applicant's claim to customary marine title over the area;
- 19 **agreed** that, if a Mandated Iwi Organisation transfers its status to an iwi governance entity, the Iwi Aquaculture Organisation can transfer at the request of the iwi;
- 20 **authorised** the Minister of Fisheries and Aquaculture to make decisions on matters of a technical nature to implement the above paragraphs;

Legislative implications

- 21 **invited** the Minister of Fisheries and Aquaculture to issue drafting instructions to the Parliamentary Counsel Office for amendments to the Bill, for inclusion in a Supplementary Order Paper, to give effect to the above proposals;
- 22 **authorised** the Minister of Fisheries and Aquaculture to make decisions in relation to any technical matters that arise in the drafting process;
- 23 **authorised** the Minister of Fisheries and Aquaculture to table the Supplementary Order Paper during the committee stage of the Aquaculture Legislation Amendment Bill (No 3), to give effect to the policy decisions arising from the paper under EGI (11) 89, without further reference to the Cabinet Legislation Committee or Cabinet.

Committee Secretary

Reference: EGI (11) 89

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