



CAB454
PDS/FM/004/035

25 June 2008

Minister of Fisheries

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CABINET PAPER ON SECTION 13 AMENDMENT

Purpose

1 This paper seeks your agreement to approve the attached paper intended for Cabinet Policy Committee (POL) of 2 July 2008 seeking approval of policy to amend section 13 of the Fisheries Act 1996 (the Act) in light of the findings of the High Court in Anton's Trawling Company Limited v The Minister of Fisheries (CIV 2007-485-2199).

Background

2 The effect of the judgment of Justice Miller of 22 February 2008 in Anton's Trawling Company Limited v The Minister of Fisheries (CIV 2007-485-2199) is that a key provision of the Fisheries Act – Section 13: Total Allowable Catch (TAC) – is no longer available for use in management decisions for many fish stocks. The TAC set under section 13 is the main instrument used to constrain fishing on each fish stock to levels that can be sustained over time.

3 In March 2008 you notified Cabinet that discussions would be held with the industry and other stakeholders as appropriate to develop a remedy to allow catch limits to be set for all stocks. Non-commercial stakeholders and environmental groups have been informed of the problem and of the proposed approach to be taken to the amendment. The Ministry of Fisheries (the Ministry) has consulted Te Ohu Kaimoana and the Seafood Industry Council on the development of indicative drafting.

4 The attached paper recommends that Cabinet:

- a) Agree that the Act be amended to restore the ability of the Minister of Fisheries to make TAC decisions for all QMS stocks; and
- b) Agree that the attached indicative drafting form the basis of formulation by Parliamentary Counsel of an amendment Bill to be submitted to Cabinet as soon as possible.

Process Issues

5 The time-line for the proposed amendment is very tight. If the attached paper is considered by POL on 2 July and approved by Cabinet on 7 July, instructions will

then need to be issued to Parliamentary Counsel to draft the Bill and a paper will be prepared to gain approval for introduction. As the next Cabinet Legislation Committee meeting is not until 24 July, we propose that this paper is sent to CBC on 14 July and thence to Cabinet on 21 July. The Bill could then be introduced the same day and have a first reading on Thursday 24 July.

6 A shortened Select Committee process will be required to have the Bill passed in the remaining sitting days.

7 The Ministry will, within the next week, notify non-commercial stakeholders and environmental organisations of the progress that has been made to date and the anticipated process for advancing the amendment. Copies of the material contained in the annex to the Cabinet paper, including the indicative drafting, will be provided to stakeholders.

Recommendations

8 It is recommended that you:

- a) **Note** that the Ministry of Fisheries has consulted with Te Ohu Kāiōmoana and the Seafood Industry Council on the suggested wording for an amendment to section 13;
- b) **Sign** the attached paper and forward to Cabinet Office for consideration by Cabinet Policy Committee of 2 July 2008; and
- c) **Note** the need to expedite the process for the proposed amendment due to the limited number of sitting days left in the current Parliamentary term.


Terry Lynch
for Chief Executive
Ministry of Fisheries

NOTED


Hon. Jim Anderton
Minister of Fisheries

26 July 2008

Encl: