Evaluation under Section 32 of the Resource Management Act: Outline

Private Plan Change Request by the Wainui Bay Spat Catching Group

Introduction

1. The proposed Plan Change is outlined in the Private Plan Change Request document. Whenever a Plan Change is undertaken, s 32 of the Resource Management Act 1991 ("the Act") requires the applicant to submit an evaluation report which addresses why the Plan Change is appropriate, considers other reasonably practicable options and assesses their efficiency and effectiveness. This document, along with the s 32 analysis table at Schedule 6, is the s 32 report.

2. The Wainui Bay Spat Catching Group is requesting a change to the Tasman Resource Management Plan ("the Plan") to enable the continuation of existing mussel spat catching and holding in Wainui Bay. The objective of the Plan Change is:

   - To provide certainty of spat supply in the future, in order to ensure the ongoing viability of the mussel farming and processing industry in the top of the South Island, and in New Zealand.
   - To recognise that Wainui Bay is first ranking in New Zealand in terms of the reliability and quality of spat fall, and similar to Ninety Mile Beach in terms of the quantity of spat fall. The entire mussel farming and processing industry is dependent upon a reliable source of spat, and Wainui Bay is the foundation stone of that industry.
   - To foster investment, economic growth and employment in the aquaculture sector, and in the communities in which aquaculture activities are based.
   - To do no more than what is currently being done at Wainui Bay, aside from ensuring mussel spat catching and holding can continue for the foreseeable future post-2024. No new water space is being sought.
   - To encourage use of the site for mussel spat catching and holding only, by making full mussel farming at the site a prohibited activity.
   - To acknowledge the impact that mussel spat catching at Wainui Bay has on the amenity of neighbours and visitors to the area, by placing additional environmental controls in the Plan to better manage these impacts.

3. This evaluation considers the extent to which this objective is the most appropriate way to achieve the purpose of the Act. The reasonably practicable policy, method and rule options in respect of the proposed Plan Change are also considered, to determine which most appropriately achieves the objectives of the Plan and the objective of the Plan Change. This evaluation is required under s 32 of the Act.

The National Policy Context

4. The proposed Plan Change, and this evaluation report, occurs against the backdrop of Government agendas to boost the export economy[1] and support the growth of the New Zealand aquaculture sector. Recent research and policy developments in this area are outlined below. The economic and social benefits arising from the proposal should be given appropriate recognition in light of this.

[1] The Government's Economic and Business Growth Agenda focuses in part on building a more productive and competitive export economy. For more information see the Ministry of Business, Innovation and Employment's website: http://www.mbie.govt.nz/what-we-do/business-growth-agenda.

The Government's Aquaculture Strategy and Five-year Action Plan to Support Aquaculture

5. In April 2012 the Government released its Aquaculture Strategy and Five-year Action Plan to Support Aquaculture.[2] The Strategy and Action Plan establishes a whole-of-government pathway to facilitate the sustainable growth of New Zealand's aquaculture sector. It aligns with the aquaculture industry's strategy and the Ministry for Primary Industries' ("MPI") vision for New Zealand's primary sectors, namely "Growing and Protecting New Zealand."

6. The following statement in the forward to the document encapsulates the motivation behind the conception of this strategy:

> *Within an international market characterised by strong demand for safe and sustainable seafood products, the aquaculture sector has significant growth opportunities. This growth has to be industry-led and the industry's opportunities and aspirations are reflected in their own goal of growing annual sales to NZ$1 billion in value by 2025. The aquaculture industry has established a strategy to deliver that growth. The Government is committed to environmentally sustainable, primary sector-led strengthening of the economy and is committed to enabling the aquaculture industry to reach its goal.*

7. The strategy establishes seven objectives, including quality planning and permitting, effective and responsive regulation, increasing market revenues and increasing value through research and innovation. The remainder involve supporting a healthy aquatic environment, Maori objectives and sound governance.

8. Against the backdrop of this strategy, two recent reports conducted for MPI consider the social value of a job, and more specifically, the community and social benefits associated with increased employment from growth in the aquaculture sector. These reports are discussed below.

MPI Report – The Social Value of a Job (Dec 2014)

9. In December 2014 the Aquaculture Unit MPI released a report entitled *The Social Value of a Job*.[3] The report "explores a range of flow-on social effects that may occur as a direct result of paid jobs."[4] The report summaries the social benefits of having a job for individuals and their households, and the social benefits for the wider community.[5]

10. When outlining the overall social value of having a job, the report states that "having a job is critical to an individual's wellbeing (and to the others in the household), and to sustaining a vibrant community in which the household is situated."[6] It cites the *World Bank Development Report* (2013), *Jobs*:

> *Jobs are transformational. They are more than just the earnings and benefits they provide. They are also the output they generate, and part of who we are and how we interact with others in society. Jobs boost living standards, raise productivity and foster social cohesion.*

11. The social benefits of having a job for individuals and their households include:

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[2] A copy of the strategy is available here: http://www.fish.govt.nz/NR/rdonlyres/20A0ED89-A20B-4975-9E63-6B302187840D/0/AQUAStrat5yrplan2012.pdf.

[3] Quigley, R. and Baines, J. *The Social Value of a Job* (2014, Ministry for Primary Industries, Wellington). A copy of this report is available here: http://mpi.govt.nz/news-and-resources/publications/.

[4] *The Social Value of a Job*, at 1.

[5] *The Social Value of a Job*, tables at 2-3.

[6] *The Social Value of a Job,* at 7.

(a) Provides money, boosts living standards, and provides a way out of poverty or to avoid poverty;
(b) Improves health and wellbeing, including mental health and self perception (lowers death rates, and lowers rates of long standing illness, suicide, depression and anxiety);
(c) Helps people to say no to addictive substances;
(d) Contributes to making children's lives better, by enhancing their feelings, health and behaviour;
(e) Lowers substance abuse in children;
(f) Enhances future job prospects for children;
(g) Enhances our social circle of friends and increases social interaction;
(h) Helps us to feel good about ourselves, and shapes our identity; and
(i) Makes our lives more satisfying.

12. The social benefits of having a job for the community include:
(a) Contributes money and resources into communities which, among other things, improves the availability and quality of resources and services in the community;
(b) Improves relationships, by potentially increasing social capital, the level of civic engagement and the level of trust and understanding of other people;
(c) Contributes to social gradients in our community; and
(d) Contributes to society by producing meaningful, safe and environmentally sustainable products and services.

MPI Report – The Social and Community Effects of Aquaculture: A case study of Southland aquaculture (June 2015)

13. In June 2015 another report prepared for the Aquaculture Unit MPI was released, entitled *The Social and Community Effects of Aquaculture: A case study of Southland aquaculture*.[7] This study intended to fill a gap in the knowledge base about the social effects of aquaculture development.

14. Notably, the report says:[8]

> *The social effects in Stewart Island and Bluff are **remarkable for their positive nature**. Despite participants being asked about negative effects experienced, nothing remotely significant was described. Instead, a **highly positive and significant social picture has emerged**, where the companies and employees have jointly contributed. There is no doubt that the communities of Stewart Island and Bluff are **significantly socially richer due to the presence of aquaculture** [**emphasis** added].*

15. The report summarises the direct effects from aquaculture in Southland, broken down into community and individual/household effects.[9] These included:
(a) Financial donations;
(b) Product donations;
(c) Contribution by employees and owners to the community (such as volunteer services, membership/roles in community organisations);
(d) Aquaculture product and farms contributing to the local identity or offering educational/learning opportunities; and

[7] Quigley, R. and Baines, J. *The Social and Community Effects of Aquaculture: A case study of Southland aquaculture* (2015, Ministry for Primary Industries, Wellington). A copy of this report is available here: http://mpi.govt.nz/news-and-resources/publications/.
[8] *A case study of Southland aquaculture*, at 5.
[9] *A case study of Southland aquaculture*, tables at 10-11.

(e) Supporting employment in and viability of supply chain businesses.

16. In carrying out the s 32 evaluation for the proposed Plan Change, the applicant has been mindful of the Government's support of growth in the aquaculture sector and of the approach taken in the MPI reports. This has been assessed with regard to competing factors, such as adverse environmental effects.

Approach Required Under s 32 of the Act

17. Sub-section 32(1) of the Act states:

> (*1) An evaluation report required under this Act must—*
> *(a) examine the extent to which the objectives of the proposal being evaluated are the most appropriate way to achieve the purpose of this Act; and*
> *(b) examine whether the provisions in the proposal are the most appropriate way to achieve the objectives by—*
> *(i) identifying other reasonably practicable options for achieving the objectives; and*
> *(ii) assessing the efficiency and effectiveness of the provisions in achieving the objectives; and*
> *(iii) summarising the reasons for deciding on the provisions; and*
> *(c) contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.*

18. Sub-section 32(1)(a) requires a consideration of the extent to which the objective of the Plan Change, as described in paragraph 2, is the most appropriate way to achieve the purpose of the Act.

19. Given that the proposed Plan Change seeks to amend provisions in the existing Plan, sub-section 32(3) requires a consideration of whether the provisions of the Plan Change are the most appropriate way to:
(a) Achieve the objective of the Plan Change; and
(b) Achieve the relevant objectives in the Plan.

20. The analysis follows the steps required in s 32(1)(b) for assessing the most appropriate way to achieve the Plan/Plan Change objectives. Sub-section 32(2) sets out the steps necessary under s 32(1)(b)(ii) for assessing the efficiency and effectiveness of the provisions in achieving the objectives, namely:

(a) Identify and assess the costs and benefits of the anticipated environmental, economic, social and cultural effects, including economic growth and employment;
(b) Quantify those costs and benefits where practicable; and
(c) Where there is uncertain or insufficient information, assess the risk of acting or not acting.

The Purpose of the Act

21. The Plan Change proposal has been assessed against the purpose of the Act at pages 3 -5 of the Private Plan Change Request document at the beginning of Folder 1. Recognising Wainui

Bay's important role in securing certainty of mussel spat supply most appropriately achieves the purpose of the Act because, in terms of the enabling provisions in s 5, the mussel farming and processing industries have been and will continue to be a source of substantial revenue generation and job creation in the top of the South Island. Mussel spat catching at Wainui Bay fuels this industry, and does not transgress any environmental bottom lines. Without the certainty of a viable ongoing supply of mussel spat, the future viability of this industry is called into question.

22. Consistent with the purpose of the Act (meeting the reasonably foreseeable needs of future generations), the Plan Change is not permanent. Any change would continue until the Plan is reviewed, or undergoes another plan change. This, combined with lack of cumulative environmental effects from mussel spat catching at the site, means that future generations will be able to remove the Wainui Bay farms, should they wish to do so, without lasting adverse effects on the environment.

Reasonably Practicable Options

23. The proposed Plan Change is set out in detail in the Plan Change Request document, the Assessment of Environmental Effects ("AEE") at Schedule 1, and in the track changed version of the Plan at Appendix A. In essence, the proposal is to re-zone Wainui Bay under the name "AMA 4 Wainui", making mussel spat catching and holding controlled activities, and full mussel farming (or other forms of marine farming) a prohibited activity. This partial move to controlled status would continue until the Tasman District Council reviews the Plan or another plan change alters the activity status.

24. The reasonably practicable options for achieving the relevant objectives of the Plan are as follows:

    (a) Option 1: Retain the status quo, with Wainui Bay being an exception to the prohibition against marine farming in the coastal marine area of the District that is not zoned under an Aquaculture Management Area ("AMA"), with both mussel spat catching and full mussel farming retaining discretionary status. The policies in the Plan support continuation of the sites "for the duration of the existing licences and permits". The inference is that the farms' continued existence after 2024 is uncertain.

    (b) Option 2: Wainui Bay remains an exception to the prohibition against marine farming in the coastal marine area of the District that is not zoned under an AMA, with mussel spat catching becoming a controlled activity, mussel farming between 40-60mm remaining a discretionary activity and full mussel farming becoming a non complying activity (until the Plan is reviewed, or another plan change changes the status of the activities).

    (c) Option 3 (the proposed Plan Change): Re-zone Wainui Bay under the name "AMA 4 Wainui", making mussel spat catching and holding controlled activities, and full mussel farming (or other forms of marine farming) a prohibited activity (until the Plan is reviewed, or another plan change changes the status of the activities). If the controlled activity standards are not met, mussel spat catching and holding become restricted discretionary activities.

25. The various classes of activity status described above have the following implications under s 87A the Act:

(a) Controlled activity: a resource consent must be granted, and Council's power to impose conditions would be limited to the matters over which control has been reserved.
(b) Restricted discretionary activity: a resource consent is required, but Council's power to decline a consent, or to grant a consent and to impose conditions, is restricted to the matters over which discretion is restricted.
(c) Discretionary activity: the Council could decline the consent or grant the consent with or without conditions.
(d) Non-complying activity: a resource consent could be granted or declined with or without conditions. Consent could only be granted if the Council was satisfied that the adverse effects of the non-complying activity on the environment would be minor, or the activity would not be contrary to the relevant plan or proposed plan.
(e) Prohibited activity: no application for a resource consent can be made, and Council must not grant a consent.

26. In ascertaining how to best ensure that the industry can rely on mussel spat supply from Wainui Bay in the future, several possible approaches were evaluated. The applicant considered amending the Plan to enable mussel spat catching to continue elsewhere in Golden Bay or Tasman Bay. In order for this option to provide certainty and be a plausible alternative to those described above, an alternative location would need to have spat fall that was equivalent to or better than the levels occurring at Wainui Bay. An alternative location would also need to be environmentally acceptable. There is no such site. The closest sites would be the mussel spat catching sites AMA 1, AMA 2, and AMA 3. However, those sites are not as reliable as Wainui in terms of the quantity of spat fall. While these AMAs provide a valuable resource to the industry, they are no substitute for Wainui Bay. Accordingly, this was not considered a reasonable alternative, and was discounted at the outset.

Efficiency and Effectiveness Assessment

27. As noted above, this stage of the evaluation requires identification of the costs and benefits of each of the potential options set out above in paragraph 24. This evaluation is set out in the table at Schedule 6. A combination of qualitative analysis and an economic impact assessment ("EIA") are used, which is in line with the approach accepted by the Environment Court.

28. In the 2014 Environment Court decision in *Whangaroa Maritime Recreational Park Steering Group v Westpac Mussels Distributors Limited*[10] economist Fraser Colegrave gave economic evidence for Westpac Mussels. Colegrave outlined two commonly used economic evaluation techniques: EIA and cost benefit analysis ("CBA"). An EIA examines the overall economic effects of a proposal, including flow-on effects and inter-industry dynamics, while a CBA compares costs and benefits to determine the net return.[11]

29. Colegrave noted that many of the costs and benefits that would normally be included in a CBA are difficult to quantify in the case of aquaculture, so that accurate assessment is precluded. Since 2006, four economic assessments commissioned by Auckland Regional Council and Waikato Regional Council, jointly funded with New Zealand Trade and

[10] *Whangaroa Maritime Recreational Park Steering Group v Westpac Mussels Distributors Limited* [2014] NZ EnvC 092.
[11] *Westpac Mussels,* Statement of Evidence of Fraser James Colegrave, 10 August 2013, at [28].

Enterprise, used only an EIA.[12] Colegrave used only an EIA in his analysis for Westpac Mussels, and the Environment Court accepted his approach.

30. An EIA uses an input-output table, a detailed matrix that shows how the different sectors of an economy are interrelated, so that the effects of a change in one sector ripple through other sectors. The input-output table is then 'solved', so that all of the inter-industry linkages are boiled down to a small set of numbers, known as multipliers.[13] Colegrave averaged the multipliers used in existing New Zealand literature on the regional and economic impacts of mussel farming and processing.[14]

31. This economic evaluation of the Wainui Bay Plan change proposal adopts the EIA approach and uses Colgrave's multiplier. The table in Schedule 6 quantifies the costs and benefits of effects where possible, and analyses their effectiveness and efficiency in a qualitative sense when quantification is not practicable. Where quantification has been possible, the aquaculture multiplier used by Colegrave has been applied to available data for Wainui Bay. This gives an approximate idea of the impact of mussel spat catching at Wainui on a regional and national basis.

32. The Ministry for the Environment ("MFE") released "A guide to section 32 of the Resource Management Act 1991" in December 2014. It contains the following definitions:

    (a) Effectiveness assesses the contribution new provisions make towards achieving the objective, and how successful they are likely to be in solving the problem they were designed to address; and

    (b) Efficiency measures whether the provisions will be likely to achieve the objectives at the lowest total cost to all members of society, or achieves the highest net benefit to all of society.

33. A broad range of costs and benefits must be taken into account, and many of these are intangible and non-monetary. The MFE guide notes, with regard to quantification, that the "inclusion of 'if practicable' recognises that for either ethical reasons or methodological limitations it may be difficult to quantify particular impacts, such as biodiversity, amenity values, recreational uses of natural resources, iwi/Maori spiritual values, and principles of kaitiakitanga."

Most Appropriate Option

34. The analysis in the table at Schedule 6 shows that both options 2 and 3 would be appropriate ways of achieving the objective of the Plan Change and the objectives of the Plan. These options are to be preferred over the status quo (option 1).

35. Option 2 would require the least amount of change to the Plan out of options 2 and 3, yet would still achieve the Plan Change objective. However, the Plan prohibits aquaculture in parts of the coastal marine area within the District that are not zoned under an AMA, with Wainui Bay currently being an exception to that rule. It is likely that option 3 will be considered preferable to option 2 from a planning perspective, as a move to AMA status for

[12] *Westpac Mussels,* Statement of Evidence of Fraser James Colegrave, 10 August 2013, at [27], and [30] – [31].
[13] *Westpac Mussels,* Statement of Evidence of Fraser James Colegrave, 10 August 2013, at [35] – [36].
[14] *Westpac Mussels,* Statement of Evidence of Fraser James Colegrave, 10 August 2013, at [48] – [49].

Wainui would bring this area into line with the broader policy approach to aquaculture in the Plan.

36. Relative to option 2, option 3 would:

(a) Most likely find favour with planners, so that the objective of the Plan Change would be achieved, and the time and resources invested in preparing and lodging the Plan Change proposal would be well utilised;
(b) Theoretically increase the likelihood of the Wainui Bay site being used for catching mussel spat in preference to farming mussels, although in a practical sense mussel farming at the site is not viable due to over-settlement issues; and
(c) Best achieve internal consistency in the Plan from a policy perspective, by re-zoning Wainui as an AMA.

37. In contrast, relative to option 3, option 2 would:

(a) Require a smaller number of changes to be made to the Plan to achieve the Plan Change objective; and
(b) Quite possibly find more favour with the community, as a move to AMA status gives the impression of being a greater, more permanent change (although in reality AMA status is just another planning tool. It is no more permanent than the present situation).

38. The Wainui Bay Spat Catching Group decided to adopt the approach under option 3 for its Plan Change proposal. While this will require a greater number of changes to be made to the Plan in order to achieve consistency at the policy level, achieving this consistency is likely to make this the most favourable option from a planning perspective. Community perceptions and concerns can be mitigated to a degree by providing information and correcting incorrect perceptions that a move to AMA status is a more significant change, and by writing additional conditions into the Plan as part of the proposal.

39. The proposed Plan Change (option 3) would achieve the environmental objectives of the Plan more effectively than the status quo. Under the Plan Change, spat catching and holding at Wainui Bay would be allowed as controlled activities, while full mussel farming would be come a prohibited activity.

40. Mussel spat catching is defined in the Plan as spat catching and holding of mussels less than 40mm in length. Under the existing consents, the outer two farms allow for mussel farming for mussels up to 60mm in length, while the four inner farms are consented for full mussel farming. The Plan Change seeks to secure the continuation of an activity which is less than that which is currently consented for. A move to controlled status for mussel spat catching and holding will further promote the use of the sites for that purpose, in preference to full mussel farming.

41. The effects of mussel spat catching on the environment are more minor than those from mussel farming. In particular:

(a) Less weight means less buoys, therefore, reduced visual impact;
(b) Less surface area means less attenuation of current;
(c) Smaller biomass means lower phytoplankton consumption;
(d) Smaller shells results in a reduction in deposits on the seabed; and

(e) Faster turnaround of equipment results in less biofouling.

42. Furthermore, it is clear that the proposed Plan Change achieves the aquaculture objective at 22.1.2 of the Plan better than the status quo. The economic, employment and social benefits resulting from mussel spat catching at Wainui Bay far outweigh any associated costs. The status quo does not provide the same level of certainty, which is fundamental to the ongoing viability and productivity of the mussel farming and processing industry.

43. Wainui Bay as a site for mussel spat catching is unique. The site is of national importance for the maintenance of the mussel farming industry in Tasman Bay, Golden Bay and the Marlborough Sounds. The proposed Plan Change will secure approximately 530 jobs in the combined Golden/Tasman Bays, Nelson and Marlborough region, and in the order of 1300 full time equivalent positions directly and indirectly in New Zealand.

44. Mussel spat harvested from Wainui Bay will go onto grow mussels which will account for an estimated NZ $126.35 million in revenue from domestic and export sales in 2015 alone. This annual figure is expected to increase each year, with 34% increase forecast come 2025. The proposed Plan Change will encourage investment in a sector of the economy recognised by the Government as playing a significant part in New Zealand's economic growth in the coming decade.