

Report No:	REP12-06-05
File No:	C424
Date:	14 June 2012
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 28 June 2012
Report Author: Neil Jackson, Policy Planner
Subject: **AQUACULTURE -FISH FARMING**

EXECUTIVE SUMMARY

This report follows REP12-03-07, which advised Council that NIWA had completed two reports commissioned by the Ministry of Primary Industry, on physical conditions and possible environmental limits for fish farming in Tasman and Golden Bays.

Following that March meeting, the NIWA reports were provided to Councillors, placed on the Council website, and stakeholders were advised of them.

The report outlines the Tasman Resource Management Plan context for which the NIWA reports are relevant. This includes the two-step process of tendering for the right to apply for a coastal permit, followed by applying for a coastal permit, for fish farming.

The report evaluates options of making space available for tender, or not.

RECOMMENDATION/S

The recommendation is to make no provision to tender space until there is:

- Known interest in fed fish farming in Tasman or Golden bays; and
- Confidence that fed fish farming and mussel farming are compatible within AMA subzones.

DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the report Aquaculture - Fish Farming Report REP12-06-05 and agrees to make no provision to tender space for application for fish farming at this time, but notes that the matter can be raised at any time under Policy 22.1.3.17 of the Tasman Resource Management Plan.

Reasons:

- 1. There has been no interest in fish farming made known to Council since the Tasman Resource Management Plan made limited provision for that activity from 1 October 2011.**
- 2. There have been no claims of compatibility between fish farming and mussel farming in the AMA subzones where currently both activities must occur, by existing or prospective marine farmers.**

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1. Purpose

- 1.1 The purpose of the report is to recommend that the Council decide not to make any space available within the existing Aquaculture Management Areas (AMAs), where the right to apply for resource consent to farm species that require feed to be added to the water, would be tendered (but with no automatic entitlement to consent being granted).
- 1.2 This follows a briefing report earlier this year about the opportunity to consider provision of additive species aquaculture (including fish farming) in the current AMAs in the Tasman Resource Management Plan (the Plan).

2. Background

- 2.1 This report follows REP12-03-07, which advised Council that NIWA had completed two reports commissioned by the Ministry of Primary Industry, on physical conditions and possible environmental limits for fish farming in Tasman and Golden Bays. The NIWA reports were provided to Councillors following that meeting.
- 2.2 The NIWA reports were also put on Council's website, and the following people were advised of that by letter:
 - Aquaculture New Zealand
 - SMW Consortium
 - Golden Bay Marine Farmers Consortium
 - Challenger Scallop Enhancement Company
 - Challenger Fin Fisheries Management Company
 - Golden Bay Mussels Ltd
 - Tasman Mussels Ltd
 - Sanford Ltd
 - Marlborough Aquaculture Ltd
 - Golden Bay Ring Road
 - Marine Farming Ltd
 - Tasman Bay Ring Road
 - Spat Catching Ltd
 - Friends of Golden Bay
 - Friends of Nelson Haven and Tasman Bay
 - Royal Forest and Bird Protection Society (Golden Bay)
 - Royal Forest and Bird Protection Society (Nelson-Tasman)

- Manawhenua ki Mohua
- Talleys Group Ltd

2.3 The Resource Management Amendment Act (No 2) 2011 extended the range of species for which consent could be sought for marine farming in the AMAs of the Tasman Resource Management Plan. This included “additive” species - those needing feed added to the water.

2.4 The Plan regime for additive species aquaculture has several parts:

2.4.1 “Authorisation” - the right to apply for a coastal permit to farm additive species - will be tendered.

2.4.2 Policies specifying the scope and form of control of aquaculture involving additive species, including that the initial decision to establish any area for tender follows consideration of investigations. This is where the process lies at present.

2.4.3 If Council decides to establish a tender for additive species aquaculture, a total of up to 280 ha of space could be made available for tender within current AMAs. This is an average of 20 ha over each of the 14 AMA subzones allocated for farming. The intent is that Council would nominate an amount of space within each AMA, but it is up to each tenderer to identify the location of the space they are seeking (within an AMA).

2.4.4 The actual area to be tendered would be based on investigations into physical conditions of the AMA sites and possible environmental limits on farming fed species.

2.4.5 In any consent issued for farming additive species, the Plan limits the initial stage of development to 10 ha. Expansion is subject to satisfactory results from monitoring environmental effects from the first stage of operations. (This reflects the adaptive management process that currently applies to mussel farming as well.)

2.5 All space in the marine farming AMAs is already taken up by existing consents or applications for mussel farming. The two-step authorisation-tender-and-coastal-permit process would be limited to the people holding those existing consents or applications, or other people who have some formal agreement with those consent-holders or applicants. Evidence of an agreement could be made a prerequisite for lodging a tender, a prerequisite for a subsequent application for a coastal permit, or a condition to be satisfied before a coastal permit can be implemented.

2.6 Currently, not all of the AMAs have received endorsement through the test of “undue adverse effects on fishing” applied by the Ministry for Primary Industry. A decision by the Ministry in 2008 is still subject to appeals. The AMA subzones to which a tender process could apply at present are:

- The area of existing coastal permits in subzone (a) of AMA 1 Waikato (191 ha)
- Subzone (q), and the farmed part of subzone (p), in AMA 2 Puramakau (323 ha)
- Subzones (i), (j), and (k) of AMA 3 Te Kumara (746 ha)

3. Present Situation/Matters to be Considered

3.1 The principal matter to consider is whether Council wishes to make any space available, in which to tender the right to apply for consent for fish farming (called an authorisation). If “yes”, a positive decision is needed. A further decision will be needed on how much space should be offered in each of the AMAs; and on criteria to be applied in evaluating tenders. If Council makes a “no” response to the principal matter, no formal decision is required. TRMP Policy 22.1.3.17 leaves the matter on hold unless or until Council makes a positive decision. The matter can be re-visited at any time. The policy is:

“Subject to Policy 22.1.3.16, to determine the actual area to be tendered using information from investigations into physical conditions (such as depth and current) for aquaculture activities and any scientific investigations undertaken into environmental limits on aquaculture involving additive species.”

3.2 As reported in March, the NIWA reports are equivocal. They do not explicitly support or oppose fish farming in Tasman and Golden bays. They do not categorically state that unacceptable adverse effects are inevitable; nor do they say that the bays are unconditionally suitable for fish farming. The reports imply that there may be areas outside the AMAs, with greater water depth and faster current flow, which would be more suitable for fish farming than within the present AMAs.

4. Financial/Budgetary Considerations

4.1 A positive decision to make space available for tender would require staff time to development and administer a tender process.

5. Options

5.1 The working group of MPI, DOC and Council staff who have discussed the reports considered there are three options:

- Offer no space for tender, on the basis that the bays are not suitable for feed-added fish farming;
- Offer a small area for tender, on the basis that the bays are marginally suitable for fish farming; but with a caveat that consent will depend on Council’s confidence in the operator’s ability to manage the effects identified in the reports;

- Offer no space for tender until science or technology give confidence that fish farming will have a low risk of adverse environmental consequences.

5.2 There have been only two inquiries to Council since the NIWA reports have been on the Council website and key stakeholders were advised. One was about the tender / consent process in relation to the rights of existing consent-holders and applicants. The second also covered those matters and additionally sought confirmation that the 2011 legislation had maintained the requirement for aquaculture to be contained within the AMAs for Tasman.

5.3 This lack of demand-related response suggests a fourth option:

- Offer no space for tender until there is an indication of demand from likely fish farmers.

6. Pros and Cons of Options

6.1 Offering space for tender would remove a barrier and create an opportunity for marine farming with different species and techniques. Against this, is the question of the need to develop a tender process for activities for which there is no apparent current demand.

6.2 Not offering space for tender avoids developing and administering a tender process, and subsequent processing of consent applications. It is a status quo holding pattern in accord with the current TRMP policy and rules, and does not prevent the matter being re-visited. It does not require a formal Council decision, which would then have to be formally rescinded if the matter were re-visited. Against this, is that there would be no opportunity to apply for consent for fed fish farming unless or until Council makes a decision to tender.

6.3 The only locations where a fed fish farm could apply to operate are currently operated as mussel farms. Interactions between fish farm structures and operations with mussel farm operations would need to be resolved either by agreement between the operators (who may be the same person/company) or through the consent process. These include:

- How fish cages may affect current flow that provides nutrient for mussels;
- Whether the addition of feed to the water, along with any effect on current, will affect over-settlement or biofouling on mussel lines, or increase mussel growth rate;
- How mussel growth may be affected by predicted decrease in water column oxygen;
- Whether fish farming will have impacts on seabed communities that affect the monitoring requirements needed for the staged development of the mussel farms.

7. Evaluation of Options

7.1 The option of creating a tender process would require nominating:

- An amount of space in one or more of the AMAs;
- A closing date;
- Criteria for deciding successful tenders.

7.2 Tender is usually applied to goods or services that are known with certainty. In this case there are three levels of uncertainty:

- The outcome is only the right to apply for consent, with no guarantee of the result;
- The consent application is for an activity with uncertain effects, and may be subject to submissions in opposition;
- If granted, a consent is unlikely to be implemented without agreement negotiated with a party who has a prior interest in the site, through an existing mussel farming consent or application.

7.3 Any tender is normally used in the expectation of maximising benefit in a situation of competing demand. Council has received no indications of demand either since the amended TRMP provisions came into effect on 1 October 2011, nor since the NIWA reports were placed on Council's website and made available to interested parties.

7.4 No formal decision is required to not create a tender option. That would maintain the status quo of the current TRMP provisions, and the tender option could be re-visited at any time.

8. Significance

8.1 This is not a significant decision according to the Council's Significance Policy because it implements a process set out in the TRMP, which has been settled by due process.

8.2 Despite implementing a TRMP process, this is not a decision made under a statutory RMA process. There is no provision for an appeal to the Environment Court.

9. Recommendation/s

9.1 The recommendation is to make no provision to tender space until there is:

- Known interest in fed fish farming in Tasman or Golden bays; and
- Confidence that fed fish farming and mussel farming are compatible within AMA subzones.

10. Timeline/Next Steps

10.1 Should Council adopt the recommendation, no further action is required. Giving public notice of that conclusion would be an optional step.

10.2 Should Council choose to provide a tender opportunity, the next steps would be to:

- Decide the amount of space to be tendered;
- Decide the closing date for tenders;
- Decide the criteria for determining successful tenders;
- Publicly notify its decision and the tender process.

11. Draft Resolution

11.1 THAT the Environment & Planning Committee receives the report Aquaculture -Fish Farming Report REP12-06-..... and agrees to make no provision to tender space for application for fish farming at this time, but notes that the matter can be raised at any time under Policy 22.1.3.17 of the Tasman Resource Management Plan.

11.2 Reasons:

11.2.1 There has been no interest in fish farming made known to Council since the Tasman Resource Management Plan made limited provision for that activity from 1 October 2011.

11.2.2 There have been no claims of compatibility between fish farming and mussel farming in the AMA subzones where currently both activities must occur, by existing or prospective marine farmers.



Neil Jackson
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