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Committee Environment Committee
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Aquaculture Reform Bill

1. Purpose

To give the Committee an overview of the contents of the Aquaculture Reform Bill and to highlight some of the issues that we are likely to focus on in a submission on the Bill.

2. Background

Since November 2001, there has been a moratorium on applications for coastal permits for aquaculture activities. The government established the moratorium to allow time for the Aquaculture Reform Bill (the Bill) to be developed and enacted. The moratorium will be uplifted on 31 December 2004.

The Aquaculture Reform Bill was publicly released on 26 August 2004 and had its first reading in Parliament on the same day. Submissions are due by **Monday 27 September 2004**.

3. The Bill

The Bill amends the Fisheries Acts 1983 and 1996 and the Resource Management Act 1991 (RMA). The stated purpose of the Bill is to enable the sustainable growth of aquaculture and ensure the cumulative environmental effects are properly managed, while not undermining the fisheries regime or Treaty of Waitangi settlements.

The Bill redefines the interface between the Fisheries Acts and the RMA so that regional councils consider all environmental effects when providing for aquaculture in their regional coastal plans. Aquaculture must take place in aquaculture management areas (AMAs) and will be prohibited outside these areas. AMAs will be provided for in regional coastal plans.

3.1 Customary, recreational and commercial fishing

The Minister of Fisheries will assess whether an AMA proposed by a regional council will have an undue adverse effect on customary, recreational or commercial fishing. If it has such an effect on customary or recreational fishing, that area cannot be part of an AMA.

In the case of commercial fishing, there is an opportunity for marine farmers to reach an agreement with the affected commercial fishers. If an agreement is reached, it will be registered with the Minister of Fisheries and the holder of the agreement (the marine farmer) can then apply for a coastal permit.

Marine farmers will no longer require a marine farming permit under the Fisheries Act 1983. They will be required to be registered as a fish farmer under the Fisheries Act 1996, for the purpose of record keeping and product tracking. However, their activity will be managed through their coastal permit under the RMA.

3.2 The allocation of areas within an aquaculture management area

The Bill provides regional councils with greater discretion to manage the allocation of coastal space. Tendering will be the default AMA allocation mechanism unless the regional coastal plan provides otherwise. Tender money will be shared 50/50 between the Crown and the regional council.

The Bill enables the Minister of Conservation to direct regional councils about the allocation of coastal space, to give effect to government policy or any obligation of the Crown arising out of an agreement in principle or deed of settlement between the Crown and iwi.

3.3 Transitional provisions

Existing marine farms will continue for the life of their coastal permits. There is a new process for considering applications for new consents to continue existing marine farming activities once original permits expire. The area covered by existing coastal permits for aquaculture activities will be deemed to be aquaculture management areas.

3.4 Allocation to iwi

Twenty percent of the total marine farming space allocated since 1992, and 20% of any new aquaculture space, will be allocated to Te Ohu Kai Moana Trustee Limited on behalf of iwi. This is based on the principles of the 1992 fisheries settlement and will be a full and final settlement of Maori claims to commercial marine farming space after September 1992. The 20% allocated for iwi must be “representative” of the AMA.

3.5 Private plan changes

The Bill introduces a new form of private plan change for marine farmers wanting to establish AMAs. If successful, the proponent of the plan change will be entitled to a preferential right to apply for coastal permits for a proportion of the AMA.

Before allocating space in a privately developed AMA, the regional council will be required to allocate 20% of the space to Te Ohu Kai Moana Trustee Limited.

4. **Greater Wellington's submission**

Following a preliminary assessment of the Bill, it is likely that Greater Wellington's submission will focus on:

- **Aquaculture management areas** - concern that ratepayers will continue to cover all of the transaction costs associated with defining AMAs and yet benefits will largely accrue to individuals and companies.
- **Ministerial directives** - concern about the role to be played by the Minister of Conservation under the new aquaculture regime. Our concern centres on the absence of certainty about the timing and nature of ministerial directives.
- **Challenges to decisions of council** - concerns about the opportunities for challenge provided within the proposed regime, with subsequent risk of delay and cost. In particular, parties aggrieved by the results of the Ministry of Fisheries 'undue adverse effects' test, could utilise the RMA submission and appeal process to safeguard their interests.
- **Accountability and liability** - the liability risks associated with regional council decisions will be reliant on information held by the Ministry of Fisheries. Greater Wellington will want to receive accurate and complete information early in the process.
- **Allocation of 20% to Te Ohu Kai Moana** - concerns relating to the mechanism for deciding the location and "representativeness" of the 20% for iwi. We are also unsure how the new AMA allocation and the methods to be applied to align the multiple existing and emerging interests of iwi will be managed (commercial aquaculture developer and owner, ancestral right holder, ancestral connection order holder, exercise of customary activities, Treaty partner and submitter under the RMA).

5. **Communication**

The Regional Coastal Planners Group is meeting in Wellington on 10 September to discuss the Bill, with a view to identifying common concerns and creating a sector response that LGNZ will progress.

A copy of the submission will be sent to all Councillors when it is completed. There are no further formal meeting dates before the submission is due on 27 September.

6. Recommendation

That the Committee:

- 1. receives the report and notes the contents; and*
- 2. notes the matters that Greater Wellington will highlight in its submission.*

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