

REPORT

File: RC120

Report No.: 2005/027

Prepared for: Policy and Resource Planning Committee

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Date: 21 January 2005

Subject: Update on the Regional Plan: Coast Review

1. Précis

This report provides an update on the Regional Plan: Coast (Coastal Plan) review in light of the passing of the Aquaculture Reform Bill. The main aspects of the Aquaculture legislation are discussed, including the different approaches this Council can take to planning for marine farming in Otago. From the information provided in this report, the Council needs to make a decision on what basis the full review of the Coastal Plan should continue.

2. Background

On 14 March 2002, the Policy Committee endorsed a full review of the Coastal Plan to make changes to it or replace it. The Plan's effective age (ten years had passed since its initiation) and impending changes to aquaculture legislation contributed to the need for a full review of the Coastal Plan. The review progressed substantially in 2002 and early 2003. However, due to significant uncertainty over the outcome of various pieces of coastal legislation, the Council agreed in March 2004 to delay the Coastal Plan review until 31 December 2004.

3. Continuation of the review

The final form of the Aquaculture legislation is different to what was expected back in 2002 when the Policy Committee endorsed a full review of the Coastal Plan. It is not mandatory for regional councils to initiate development of Aquaculture Management Areas (AMAs) (see section 4 for more detail). Therefore, it is no longer necessary to review the Coastal Plan in response to the Aquaculture legislation. The review should continue on the basis that the Coastal Plan requires updating.

4. Aquaculture reform

4.1 Main aspects of the reform

The Aquaculture Reform Bill was passed into law on 21 December 2004 and took effect from 1 January 2005. The main aspects of the reform are that:

- It creates a single process for aquaculture planning and consents, through the Resource Management Act 1991 (RMA);
- Regional councils have clearer directions and responsibilities for managing all environmental effects of aquaculture, including effects on fisheries and other marine resources;
- Marine farms can only occur in zoned areas, known as Aquaculture Management Areas (AMAs);
- An AMA can be initiated by regional councils, the aquaculture industry or individuals;

- Effects of aquaculture on fishing activity will be taken into account through this process by an Undue Adverse Effects (UAE) test under the Fisheries Act 1996;
- More certainty is provided by settling claims for Maori commercial aquaculture post 21 September 1992.

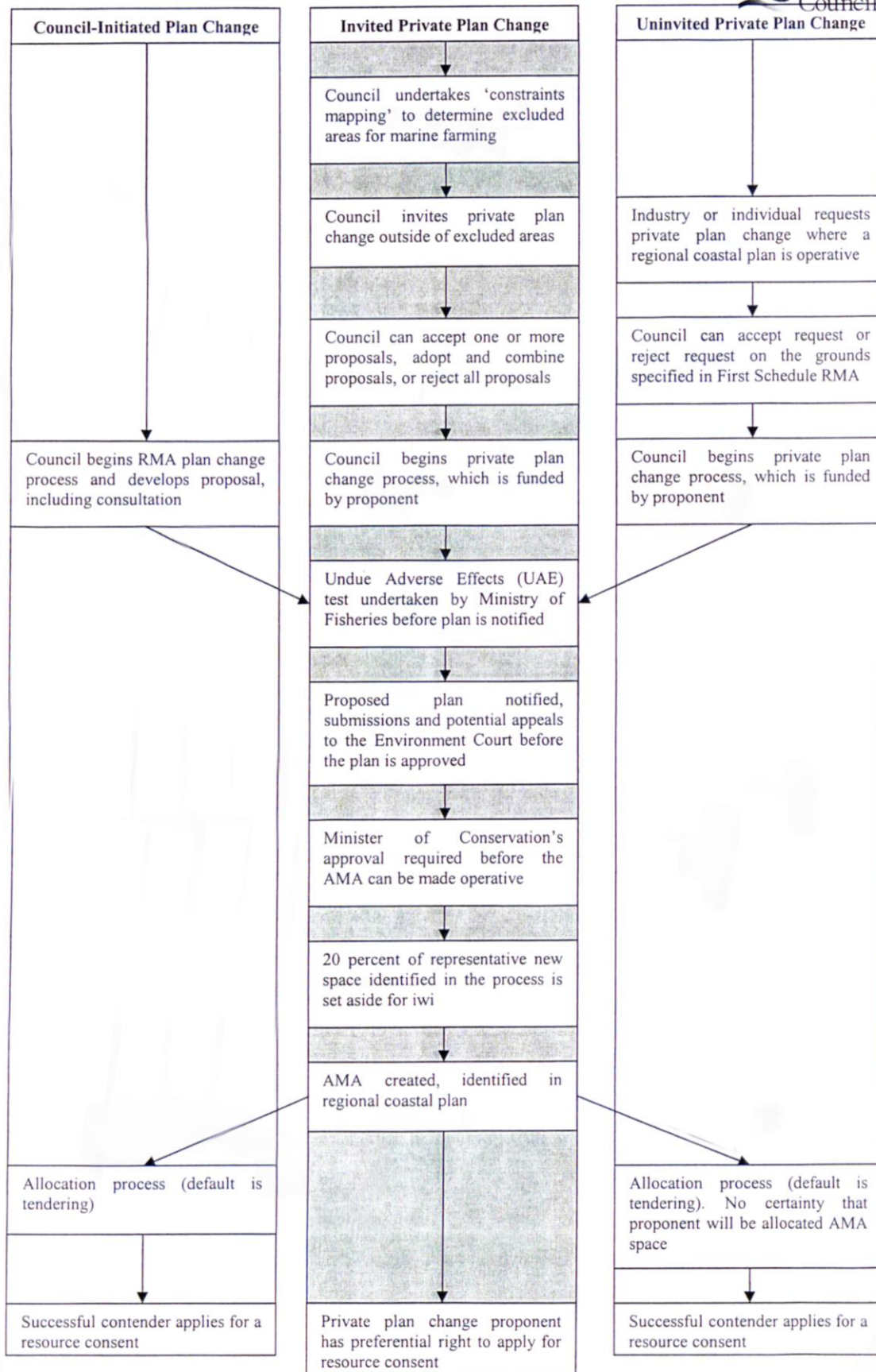
4.2 Approaches for AMA development

AMAs will have to be identified in the Coastal Plan before marine farming resource consent applications can be accepted by this Council. However, AMA development should be conducted independently of the Coastal Plan review if it is agreed that responding to the Aquaculture legislation should no longer form part of the basis for review of the Coastal Plan.

There are three ways AMAs can be introduced into the Plan: Council-Initiated Plan Change, Invited Private Plan Change, and Uninvited Private Plan Change. Each approach is summarised in the diagram on the next page.

There are advantages and disadvantages associated with each approach to AMA development, outlined below.

Approach	Advantages	Disadvantages
<i>Council-Initiated Plan Change</i>	<ul style="list-style-type: none"> ■ Provides certainty to the community and the aquaculture industry on future marine farming activities in the region ■ Depending on the allocation process (default is tendering), the plan change cost could be fully recovered; however, there is a risk of not recovering the full cost ■ Economic benefits to the region 	<ul style="list-style-type: none"> ■ If there is no immediate interest in marine farming there will be no immediate realisation of the plan change cost
<i>Invited Private Plan Change</i>	<ul style="list-style-type: none"> ■ Provides certainty to the community and the aquaculture industry on future marine farming activities in the region ■ Cost born by the proponent ■ Economic benefits to the region 	
<i>Uninvited Private Plan Change</i>	<ul style="list-style-type: none"> ■ No cost to Council 	<ul style="list-style-type: none"> ■ No certainty to the community and the aquaculture industry on future marine farming activities in the region ■ It is highly likely there will be no private plan change since there is no certainty that the proponent will be allocated AMA space, therefore no economic benefits to the region



4.3 Discussion

The Uninvited Private Plan Change approach is not the favoured option, as even though there will be no cost to the Council, it provides a lack of certainty to the community and the aquaculture industry on future marine farming activities in the region. The industry is very unlikely to request a private plan change because they have no guarantee that they will be allocated space in any AMA developed under that process. They could end up spending a lot of money for absolutely no gain.

If the development of AMAs through a Council-Initiated Plan Change is considered too costly for the Council, costs could be recovered through the allocation process but there is some uncertainty over whether this will be achievable. Tendering is the default allocation method unless another method is specified in a regional coastal plan. However, any tender revenue has to be split equally between a regional council and the Crown. The uncertainty surrounding the tendering process makes the Council-Initiated Plan Change approach riskier for this Council than the Invited Private Plan Change approach.

At the very least, the Council should conduct constraints mapping (see Section 4 for more detail) in consultation with the industry and the wider community to identify parts of Otago's coastal marine area (CMA) that are not suitable for marine farming. This information will be useful no matter what approach the Council takes to AMA development.

5. Constraints mapping

Constraints mapping involves identifying possible constraints to an activity to determine which areas would be unsuitable for that activity. Examples of possible constraints for marine farming include wave heights, water quality and marine mammals.

To proceed with constraints mapping a regional council will have to identify and map all possible constraints to marine farming to determine 'excluded areas' for marine farming. Substantial progress has already been made in developing constraints maps but this work will now have to be reviewed. Before identifying an excluded area under section 165W of the RMA, a regional council must comply with the consultative requirements in clause 3 of the First Schedule of the RMA. Once excluded areas have been determined, a regional council must announce it by public notice. AMAs must not be established in excluded areas, which means a regional council cannot seek or accept AMA plan changes that affect an excluded area.

To provide greater certainty to the marine farming industry and the community, excluded areas could be incorporated into the Coastal Plan through a plan change. However, this would make the constraints mapping exercise just as costly and timely as the process used for defining AMAs. Therefore, it would be unwise to incorporate any excluded areas into the Coastal Plan.

6. Beyond the review of the Coastal Plan

Under section 79 of the RMA, once a council has reviewed its plan, a decision has to be made about whether the plan requires change or replacement. The review of the Coastal Plan has now recommenced and is due for completion by the end of June 2005. From the work already undertaken on the review and the recommendation that the basis for the review remains solely on the need to update the Plan, it is anticipated that the plan will require changing and not replacing. This decision will need to be made by the Council once the review has been completed.

The following issues with the Coastal Plan have already been identified through the review process, as requiring attention:

- Rules that are too permissive need tightening and rules that are too restrictive need loosening;
- Commercial and residential use of boatsheds;
- Rules related to the use of signage;
- Consideration of coastal occupation charges;
- Stronger policies on cross-boundary issues such as coastal hazards and the use of vehicles on beaches;
- Incorporation of the latest sea level rise predictions into Coastal Plan provisions where necessary;
- Assessment of noise control provisions in light of district plan provisions for noise;
- Remedying inconsistencies with the Regional Plan: Water;
- Possible adjustment of the CM A boundary up rivers; and
- Remapping of specific areas identified in the Coastal Plan such as coastal protection areas, marine mammal and bird sites, and coastal hazard areas.

Should the Council decide to proceed with a change to the Coastal Plan once the review is completed, it is expected that a consultative draft of the plan change will be ready by the end of June 2006.

7. Recommendations

It is recommended that:

- a) The basis for full review of the Coastal Plan remains solely on the need to update the Coastal Plan;
- b) The Council continues with development of constraints maps to identify excluded areas for marine farming; and
- c) The Council proceeds with the Invited Private Plan Change approach for AMA development.

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