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Committee Secretariat
Primary Production Committee
Parliament Buildings
WELLINGTON

Via email: pp@parliament.govt.nz

Northland Regional Council Submission on Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Bill

Northland Regional Council is grateful for the opportunity to provide feedback on Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Bill that is currently being considered by the Parliament's Primary Production Committee.

We acknowledge the vital role marine farming and aquaculture plays in New Zealand's economy. Northland is home to 272 hectares of marine aquaculture, producing Pacific Oysters and Greenshell Mussels for domestic and international consumption. While aquaculture's contribution to the national GDP is relatively small compared to other industries in the region, it has significant potential for growth.

We understand the Government wants to provide certainty quickly to 1,200 existing marine farm consent holders, with approximately 300 consents due to expire by the end of 2024.

We understand the proposal to be:

- *All existing marine farming consents will have the consent expiry date moved 20 years out from the current expiry date. No farms with current resource consents will be excluded.*
- *This extension will be automatic and will not require an application.*
- *The Bill provides a bespoke mechanism for consent authorities to review consent conditions with agreement from the Director-General of MPI.*
- *That the review of consent conditions may be informed by limited consultation with parties specified in the Bill.*

Council is of the view that the proposed amendments to the law governing aquaculture are not necessary. Council is supportive of the Government's intention to provide certainty to marine farmers and recognises the value the industry provides to Northland and New Zealand as a whole. In our view the existing legislative framework for marine aquaculture achieves this goal. The regulatory impact statement provided in support of this Bill appears to back this position up.

National Environmental Standards for Marine Aquaculture (NES-MA) and the Proposed Regional Plan for Northland provide certainty to marine farmers. Re-consenting existing marine farms in Northland is generally a controlled activity. Controlled activities cannot be declined.

Importantly, the existing regime provides for environmental effects to be assessed and conditions to be put in place to manage those effects.

In our submission points below, we have included changes that we consider necessary to provide an appropriately balanced process for extending the consent duration of existing marine farms. To that end, we would like to reiterate that Council is supportive of the Bills intent to provide certainty of tenure to marine farmers. However, if Bill is to be passed into law, amendments are required to ensure the wellbeing of our communities and environment are appropriately considered.

Submission Points

Summary of Submission Points

The key points raised in this submission seek a greater balance between enabling marine aquaculture with the protection of our natural, built, and societal values. We include submissions on the following:

1. Tangāta whenua participation in decision-making
2. Efficient use of coastal space
3. Review of Coastal Permit conditions
4. Cost Recovery

1. Tangāta whenua participation in decision making

Council is concerned that the Bill as it stands runs risk of severely constraining tangāta whenua participation in decision making by failing to provide adequate provision for Māori rights and interests and cut across the principles of Te Tiriti o Waitangi the Treaty of Waitangi.

We acknowledge that section 165ZFHL of the Bill provides for consultation to be undertaken with iwi authorities, post settlement governance authorities, rights / customary marine title holders under the Marine and Coastal Area (Takutai Moana) Act and parties to Mana Whakahono a Rohe agreements. Limiting consultation to these entities creates a major gap in Northland where we have over 200 hapū. As it stands, the Bill does not provide for consultation / engagement with hapū.

Our existing resource management legislation recognises that different types of activities have different types of effects in both scale and nature. Where these effects could impede on the quality of life for surrounding people, environments, culture and other activities, the Resource Management Act 1991 (RMA) affords the ability for Councils to seek further information to fully assess effects and impose appropriate conditions to enable the operation of activities while limiting adverse effects.

The combination of factors in the Bill creates risk of ill-informed decisions, the inability for tangāta whenua to promote protection of their rights and interests and inconsistent approaches to Māori participation – the consequence being harm to the relationship between Crown and hapū with similar implications for local government.

Council supports those sections of the bill that clearly provide for engagement with tangāta whenua, including parties that have applied to the court for Customary Marine Title but have not yet had the title granted.

Relief sought:

- Amend section 165ZFHL of the bill to provide for consultation with hapū if the extended coastal permit applies in their rohe.
- Retain provisions within section 165ZFHL providing for engagement with iwi authorities, post settlement governance authorities, MACA rights / customary marine title holders and parties to Mana Whakahono a Rohe agreements.

2. Efficient use of space – un-exercised consents and under-developed marine farms

Amendments to the legislative framework for marine aquaculture before the committee presents an opportunity to improve the efficiency of space allocated for marine aquaculture. Some existing consents have not been fully developed or have not been developed at all. These ‘un-exercised’ consents often preclude other users and uses of the coastal space. In some instances, this is tantamount to ‘land banking’ public coastal space. A further 20-year extension of unimplemented consents would perpetuate those exclusions and prevent opportunities for other operators and uses of that coastal space.

Desktop analysis indicates that approximately one-third of marine farms in Northland are farming fifty percent or less of their consented space. Seven of those marine farms remain undeveloped.

Council strongly opposes any measures that would result in coastal space being inefficiently allocated for marine farming space for another 20 years. We request that the committee recommend amendments to the Bill that promote the efficient use of space including:

- provide an opportunity for Local Authorities to review the extent (area of marine space consented) of coastal permits for marine farming.
- allow for coastal permits to be cancelled where marine farms are abandoned, consents are un-exercised or consented space is otherwise unused (i.e. s132(3) RMA should remain available on review)

Relief sought:

- Amend the Bill to allow Local Authorities to review the extent of coastal permits for marine farming.
- Amend the Bill to allow cancellation of coastal permits where marine farms are abandoned, consents are un-exercised or consented space is otherwise unused.

3. Review of coastal permit conditions

Conditions of consent are a key tool for avoiding, remedying, or mitigating adverse effects for consented activities under the Resource Management Act.

Marine Farming is subject to constant environmental change, which is not yet understood fully, particularly having regard to climate change effects which significantly impact marine farming. It is for this reason that monitoring consents, renewals and review of consent conditions play a critical process in determining, assessing, and addressing adverse effects.

If the Bill is to progress, it is imperative that Council retains the ability to review conditions at the time the coastal permits are extended. Council requests that this is included in section 165ZFHL of the Bill.

Whist conditions will vary and will be specific to individual marine farm there are some important matters that Local Authorities must be able to address. We highlight some of these for the committee’s attention below:

- Financial Bonds – the ability to reassess the value of financial bonds to ensure they are current and reflect the cost of remedying abandoned farms.
- Biosecurity - that Council can include conditions to manage biosecurity risks arising from marine farming.

- Efficient use of space allocated for marine aquaculture - that the consented area of marine farms can be reviewed where that area has not been utilised for marine farming.
- Navigation Safety - that conditions can be reviewed or introduced to manage risks to navigation safety.

The requirement to seek permission of the Director General of Ministry of Primary Industries (MPI) to undertake a review is unnecessary and the purpose of this requirement is unclear. Providing a proposal and seeking the concurrence of the Director-General that the proposal meets the purpose of the review is both unnecessary, costly and an overly bureaucratic step in a streamlined approach to re consenting. There is also the potential to create a bottleneck within MPI as review requests come to the Director-General *en masse*.

Relief sought:

- That the ability for Local Authorities to review conditions of extant coastal permits be retained.
- Remove the requirement for a proposal to be submitted to the Director-General of the Ministry of Primary Industries before a review of conditions can occur.
- Remove the restriction in s165ZFHI(3)(c) which prevents a review from amending consented area to which the coastal permit relates (if the space is / has not been exercised for marine farm or safety concerns)
- That the Bill explicitly provides for the cancellation of consents in line with section 132 (3) RMA.
- That the Bill provides for future reviews of consent conditions under section 128 RMA.

4. Cost Recovery

Council seeks the ability for Local Authorities to recover costs associated with input to the approvals process and ongoing monitoring of consent / authorisation conditions. We note that the ability to recover costs associated with reviewing conditions of extant coastal permits is not available under the draft Bill.

Recent experience under the COVID-19 Recovery (Fast-track Consenting) Act 2020 shows that where Local Authorities are unable to recover actual and reasonable costs the cost of Council's efforts is born by ratepayers.

Our view is that the Bill should be amended to allow Local Authorities to recover actual and reasonable costs associated with reviewing conditions of extant coastal permits. The Bill proposes a 20-year extension to current permits. This is a significant benefit to marine farmers, and it is reasonable that the cost of ensuring extant permits are current and fit for purpose should lie with the party benefiting from the extension. It is not appropriate for the region's ratepayers to wear this cost.

We also note there is no mechanism in the bill for iwi or hapū to recover costs for their time and expertise in contributing to the review of coastal permit conditions. Providing the opportunity for these groups to recover costs will contribute to more meaningful engagement. We encourage the committee to consider amending the Bill to allow iwi and hapu to recover actual and reasonable costs.

Relief sought:

- Amend the Bill to allow Local Authorities to recover actual and reasonable costs associated with reviewing extant Coastal Permit conditions.
- Set out provisions in the legislation that provides appropriate compensation for iwi or hapū input.

Signed on behalf of the Northland Regional Council



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