

## Notes from Aquaculture Workshop, EDS Conference, 3 June 2010

### **Implications of Aquaculture Reform for Regional Councils**

**Chair:** Kirsty Woods

**Presenters:** Graeme Silver (Environment Waikato); Anaru Vercoe (Auckland Regional Council)

#### **Overview**

Presentations focussed on the implications of decisions made by government so far, namely:

- The removal of the legislated prohibition on aquaculture
- Use of central government intervention including insertion of rules by regulation.

The most urgent issues relate to how councils might manage the transition from the existing situation to the proposed one – particularly given the state of their plans prior to the new law, and the fact that much work carried out to plan within the current framework (for example identification of “excluded areas”) will have no effect under the proposed regime.

#### **Graeme Silver: Environment Waikato**

##### Current situation

Environment Waikato is already involved in AMAs at Wilsons Bay – these were identified before the existing law came into place. Wilsons Bay Area B has gone through the interim AMA process and a UAE on the impacts of shellfish farming has been completed. This Area should be consented this year, allowing another 520 hectares of shellfish farming. This UAE was carried out by the Ministry of Fisheries under the old law as the AMA is being processed under the transition (which means the effects of aquaculture on the sustainability of fisheries resources as well as on fishing are still processed by MFish).

Efforts are also underway to change the rules in these AMAs to enable other forms of farming – namely finfish. A plan change has yet to be notified as the Ministry has required a further UAE on the impacts of fish farming.

There are nearly 600 ha of shellfish farming applications that are frozen by the existing regime and that won't be activated unless AMAs are created around them. What will happen to these applications once the legislative prohibition is lifted will depend on whether their status is taken from the date of lodging (discretionary) or the date of re-activation (prohibited). Another area of spat catching applications (about 2500 hectares) will be inherited from ARC when the new Council boundary takes effect at the end of the year.

The Waikato Regional Coastal Plan included a prohibition on most aquaculture outside the Wilsons Bay Zone and other existing farm site before the existing law came into force. If the general prohibition under the current law is lifted and Ministers decide to try

to “ban banning” – they may act to target the prohibitions that are in the plan to have them removed.

The council has done some work towards identifying a number of areas to exclude from aquaculture under the existing law. Given the removal of invited private plan changes and excluded areas from the legislation, Environment Waikato may develop these into a plan change of prohibited areas. However these would have no effect until the plan change was operative.

## **Anaru Vercoe; Auckland Regional council**

### Current situation

The council is facing a restructure as part of the restructuring of Auckland councils. This means that there is a lot of uncertainty around how coastal planning will be managed in the new council – which makes managing a transition to the new aquaculture regime difficult. For instance there are questions about how existing staff will be placed and how far institutional knowledge will be retained.

By 1995 the council had an operative plan which made aquaculture a discretionary activity. In 2002 the ARC in early response to the new aquaculture legislation prepared and notified variations to the Chapter 22 of the Coastal Plan. Variation 3 for the Kaipara was withdrawn as a result of further investigation and research into the state of the Kaipara environment. Biomarine was able however to have their application uplifted and processed by the Ministry of Fisheries. To date the 76 ha block is the only new space created for aquaculture in the Auckland region. Since the reforms of 2004, the council has been developing a policy framework to respond to aquaculture under the new law. By the end of 2008 they were preparing for pre-notification consultation. The council was planning to use IPPCs and excluded areas over about half the CMA. However once the review of the aquaculture law was announced by the Government the council considered it was prudent not to proceed and await the outcome of the RMA phase II review.

This means that once the prohibition is lifted as proposed, the council’s plan is likely to be inadequate in terms of dealing with any demand for aquaculture. The use of intervention powers by central government may be a way to help the council. One way would be for the government to step in and assist the council develop its plan. It could use call in powers or insert rules by regulation. However there is likely to be strong opposition from stakeholders to the insertion of rules by regulation. Alternatively the council could request that applications for aquaculture be suspended for one year to enable the council to amend its plan – as well as allow time for the council restructuring to work through.

An issue that will have to be considered under the new regime is the cost of planning and who should pay. The costs of preparing an aquaculture focussed plan could be passed on to consent holders through charges. However the new penalties for not meeting timeframes could make this difficult (assuming timeframes are not met).

## Summary of points raised in discussion

1. Concerns raised about the effects of aquaculture in Wilsons Bay on snapper spawning areas and council management of the process. Clarification that assessment of the effects of aquaculture in Wilson's Bay on fisheries resources is being handled by the Ministry of Fisheries part of the transition from the old to the current regime. The regional council has the role of managing this aspect under the current regime – once the transition is worked through. The Ministry of Fisheries will continue to assess the effects of aquaculture on fishing.
2. Question raised about effect of mussel farms on tidal flows and in turn on wading birds at Miranda. Effects are uncertain – no effects are apparent at this stage. The birds are more likely to be affected by land use.
3. Questions raised about whether work has been held up because of current AMA zoning provisions and related prohibition. In effect, the lifting of the prohibition could leave the status of council plans in a similar situation to that which existed prior to the current law being enacted – raising the same management problem for councils where high demand is present.
4. Questions raised about the experience of handling the interaction with MFish on the UAE process. A range of views expressed:
  - Timing is a difficult issue as the process (certainly in the transition) works so that RMA and Fisheries Act processes do not occur in an integrated way. The UAE would work better under the RMA so that there is one decision making body and one set of appeals.
  - Questions then raised about how the issue would be managed under the RMA given the issue is between private parties - and whether the UAE would still be assessed against a threshold (as currently under the Fisheries Act) or whether the results of the assessment would be balanced – as occurs under the RMA?
  - One response would be to develop criteria on how to allocate coastal space to the best use.
  - Alternatively - these matters should best be resolved between the parties at the start of the process.

It was acknowledged that this issue is controversial.

5. Questions raised about the impacts of “fed” aquaculture (e.g. in Wilson's Bay). Could deal with this through setting limits (“limits of acceptable change”) and scale back the intensity of farming if necessary. However what happens if an operation is made uneconomic because of a review of consent conditions – this could have the effects of cancelling a consent. Perhaps another way of dealing with these kinds of effects is to provide for a rotational regime where the effort is spread around a much larger area. For instance a plan might stipulate a maximum tonnage of farming that can take place within a certain number of hectares – leaving some flexibility for how the farming takes place. Note that Cawthron Institute is doing work on the effects of finfish farming.
6. Questions raised about management of cumulative effects of aquaculture outside a zoning approach – where consents are handled one at a time. AMAs were good for

planning to deal with these matters. Another approach is to look at and plan to manage those areas that need to be protected from the effects of aquaculture. Zoning is still an option but it will require a plan change (certainty for Auckland) under the proposed regime. However it certainly streamlines the consent process once zoning is implemented.

7. How about the idea of biomass limits? Broad zoning might help within which a certain percentage (a cap on how much) can be devoted to aquaculture.
8. What about abandoned areas that are not being used? There are provisions for consents to lapse if not used. Also councils can use tools such as bonds as security for clean up. At the same time note that there are questions about liability – and reasons why farms may be abandoned – for instance due to adverse effects of land use caused by other parties.
9. Question as to why Environment Waikato and Auckland Regional Council don't consider a combined coastal plan? Environment Waikato is comfortable with the idea of a joint plan. Need to enable new Auckland council to get up and running and then discuss.
10. Comment that after reviewing coastal plans around the country, Tasman and Waikato are the only ones with AMAs. These were already zoned prior to the enactment of the current law.
11. Comment that the aquaculture industry needs planning if it is to operate with some certainty – it is appropriate to set limits and use rules – there's a need to use all the tools including zoning. We need to learn from councils that have been dealing with these issues and not be too prescriptive.