

PRIVATE PLAN CHANGE REQUEST
By The Wainui Bay Spat Catching Group
Tasman District Council

October 2015

**PRIVATE PLAN CHANGE REQUEST
SECTION 21(1), PART 2 OF THE FIRST SCHEDULE
RESOURCE MANAGEMENT ACT 1991**

TO:

**Tasman District Council
189 Queen Street
Private Bag 4
Richmond
Nelson 7050**

1. Talley’s Group Limited, MacLab New Zealand Limited, Ngai Tahu Seafood Resources Limited, Wakatu Seafood Resources, Clearwater Mussels Limited, and Chris Redwood (“The Wainui Bay Spat Catching Group”) requests a change to Part III of the operative Tasman Resource Management Plan (“the Plan”), as described below. A track changed version of the Plan Change is included in Appendix A.

The Site to which the Application Relates

2. This application relates to the block of six marine farms located at Wainui Bay, Golden Bay. The inner four farms are deemed coastal permits RM060291, RM060292, RM060293, RM120876 and RM120877 (the final two permits replaced RM060294). The outer two farms are RM071049 and RM071050. A map showing where the existing farms are located is included at Appendix D.

Overview of the Plan Change

3. The Wainui Bay Spat Catching Group is requesting a change to the Plan to enable the continuation of existing mussel spat catching and holding in Wainui Bay. The proposal is to rename Wainui Bay as Aquaculture Management Area (“AMA”) 4 Wainui, and to make mussel spat catching and holding controlled activities. This change would be effective until the Tasman District Council reviews the Plan or another plan change alters the activity status. The purpose for making this request is as follows:
 - To provide certainty of mussel spat supply in the future, in order to ensure the ongoing viability of the mussel farming and processing industry in the top of the South Island, and in New Zealand.
 - To recognise that Wainui Bay is first ranking in New Zealand in terms of the reliability and quality of spat fall, and similar to Ninety Mile Beach in terms of the quantity of spat fall. The entire mussel farming and processing industry is dependent upon a reliable source of spat, and Wainui Bay is the foundation stone of this industry.
 - To recognise the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities.
 - To do no more than what is currently being done at Wainui Bay, aside from ensuring mussel spat catching and holding can continue for the foreseeable future post-2024. No new water space is being sought.
 - To encourage use of the site for mussel spat catching and holding only, by making full mussel farming at the site a prohibited activity.

- To acknowledge the impact that mussel spat catching at Wainui Bay has on the amenity of neighbours and visitors to the area, by placing additional environmental controls in the Plan to better manage these impacts.
4. Note that this purpose is also the Plan Change objective, as defined in s 32 of the Resource Management Act 1991 (“the Act”).

Statutory and Legislative Framework

5. An application for a Plan Change is made by lodging this document under clause 21 of the First Schedule to the Act. Clause 22 requires the following documents to be provided:
- (a) A request, which explains the purpose of and reasons for the proposed Plan Change. This document, together with the Schedules and Appendices, fulfils that requirement;
 - (b) A description of the environmental effects anticipated as a result of the Plan Change. This document summarises that material, but it is more completely set out in the Assessment of Environmental Effects (“AEE”) at Schedule 1; and
 - (c) An evaluation report, which addresses why the Plan Change is appropriate, considers other reasonably practicable options and assesses their efficiency and effectiveness. Again, this document summarises that assessment, which is more fully set out in the evaluation outline and table at Schedules 5 and 6.
6. The relevant provisions of the Act, as they apply to this request, are set out in Appendix B to this document.

An Evaluation of Spat Catching at Wainui Bay

7. It is a legal requirement for any application for a Plan Change to assess a proposal in two ways:
- (a) To examine the extent to which the objectives of the proposal are the most appropriate way to achieve the purpose of the Act; and
 - (b) To examine whether the provisions in the proposal are the most appropriate way to achieve the objectives of the proposal and the Plan, by identifying other reasonably practical options and assessing their efficiency and effectiveness.

The most appropriate way to achieve the purpose of the Act

8. Aquaculture, and specifically mussel farming, enables the communities in the top of the South Island to provide for their social, economic and cultural wellbeing. Roughly 50% of the mussels farmed in the top of the South Island grow from spat caught at Wainui Bay. The proposed Plan Change will secure approximately 530 jobs in the combined Golden/Tasman Bays, Nelson and Marlborough region, and in the order of 1300 full time equivalent positions in total directly and indirectly in New Zealand. Mussel spat harvested from Wainui Bay will go on to grow mussels which will account for an estimated NZ \$126.35 million in revenue from domestic and export sales in 2015 alone.
9. Mussel spat catching at this site does not restrict the ability of future generations to choose how to meet their needs. If future generations decide that their needs are better met by having aquaculture occur somewhere else, the structures can be removed from Wainui Bay and within months all trace of the farms being at the site will disappear. Mussel spat

catching at Wainui Bay does not impact upon air, water, soil or ecosystems except to a trivial extent. This is addressed in Section 14 of Schedule 1 and in a report by Ken Grange at NIWA, entitled *Ecological Assessment of Marine Farms in Wainui, Golden Bay*, dated May 2015, included at Appendix G.

10. Finally, any adverse effects on the environment have either been avoided or mitigated. The primary impact of these farms is on the amenity of nearby residents or property owners, and visitors to the area. Effects on amenity have been avoided as much as possible. Where avoidance is not possible, the Plan Change proposes adding conditions to the Plan which will mitigate effects on amenity to the extent possible. In summary, these conditions address:
 - Hours of operation;
 - Noise and radio use;
 - Lights;
 - Debris and refuse; and
 - The requirement that consent holders attend an annual community liaison meeting.
11. This is further dealt with in the AEE at Schedule 1.
12. It follows that this proposal promotes sustainable management of the resources of Wainui Bay by meeting the social, economic and cultural objectives at the same time as meeting the intergenerational and environmental interests inherent in the definition of sustainable management. On that basis, the objectives of the proposal are an appropriate way to achieve the purpose of the Act.
13. The evidence that this proposal is the most appropriate way of achieving this comes from a number of sources:
 - (a) We know from the report of Andrea Strang, who has monitored the site on a weekly basis since 2007, and who has records dating back to 2003, that the mussel spat catching potential at Wainui Bay is consistently greater in quantity and consistently more available than any other spat catching site in Golden Bay and Tasman Bay. Andrea Strang's report and accompanying graphs are included at Appendix JK.
 - (b) We know from the calculations of mussel farmers themselves that spat caught at Wainui Bay goes on to grow roughly 50% of the mussels farmed in the top of the South Island. Not only is there a significant amount of spat available at Wainui Bay, but that spat, once caught, is of good quality. When compared to spat from other sources, spat caught at Wainui Bay adheres to mussel ropes better and grows more vigorously. It is better suited to the colder temperatures in the South Island. Furthermore, spat that is caught at Wainui Bay is available when spat from other sources is often not available, meaning that mussel farmers can smooth out seasonal effects and maintain year round mussel supply. Mussel spat from other sources is not substitutable for mussel spat from Wainui Bay.
 - (c) It is arguably unrealistic to suggest that the Wainui Bay sites should be moved, even a small distance. Across the bay from the Wainui Bay farms is the Abel Tasman National Park. Moving west from Wainui Bay, one reaches the densely populated coastal settlement of Tata Beach and Ligar Bay. Even if spat was able to be caught in either of those locations, both have obvious and probably insurmountable resource management considerations which do not apply in Wainui Bay.

14. Much scientific research is going into the breeding of spat in hatcheries. While initial results are promising, there are still some technical and scientific challenges to be overcome. In the meantime, the industry requires certainty of continued wild spat supply.
15. The current Plan provisions do not appropriately achieve the purpose of the Act, because they do two inconsistent things:
 - (a) The mussel farming consents at Wainui Bay are able to be renewed as discretionary activities. However, the policy which applies to Wainui Bay states that the farms may remain “for the duration of the existing licences and permits at that location.” That inconsistent planning approach does not provide the certainty that the marine farming industry, and the community which relies on that industry, need to plan for their future.
 - (b) The adverse effects of aquaculture in Wainui Bay are limited, as within months of removing the farms, any trace of the farms’ presence will dissipate. In contrast, the effects on the industry would be substantial if farming could not continue at Wainui Bay. In effect, approximately 1300 jobs nationwide and \$126.35 million in annual revenue would be put at risk for very little gain. It follows that the present Plan provisions do not meet the definition of sustainable management in section 5 of the Act. By contrast, on current information, the objective of the Plan Change is the most appropriate way to achieve the purpose of the Act.

Assessing the efficiency and effectiveness of the provisions

16. Section 32 of the Act also requires an examination of whether the provisions in the proposal are the most appropriate way to achieve the proposal’s objectives, and the objectives in the Plan.
17. There are three alternative options:
 - (a) Continue with the status quo, by retaining the current Plan provisions. The Wainui Bay exception applies until 2024, so the farms’ continued existence after that time would be uncertain;
 - (b) Retaining Wainui Bay as an exception to the general prohibition against aquaculture in the coastal marine area of the District, with spat catching as a controlled activity; or
 - (c) Renaming Wainui Bay as AMA 4 Wainui, with mussel spat catching and holding becoming controlled activities, and full mussel farming (or other forms of marine farming) a prohibited activity. This is the approach taken in the Plan Change proposal.
18. A detailed evaluation of these three alternatives is carried out in the evaluation report, at Schedules 5 and 6. There is very little difference in a practical sense between option 2 and the proposed Plan Change (option 3). However, it is likely that option 3 will be preferred from a planning perspective, as it would achieve internal consistency in the Plan’s policies. This tipped the balance in favour of the Wainui Bay Spat Catching Group adopting that approach.
19. Option 3 efficiently and effectively meets the objectives of the Plan Change, namely certainty for existing industry. The current provisions, on the other hand, do not. Similarly, when compared against the existing objectives in the Plan, what is proposed for Wainui Bay under option 3 more efficiently and effectively meets those objectives than what is currently in the Plan. That is for two primary reasons:

- (a) The current Plan allows for the continuance of mussel farming (as a discretionary activity). This Plan Change will make mussel farming a prohibited activity. Only mussel spat catching and holding will be controlled activities. The difference between mussel farming and spat catching is that fully grown mussels weigh more than spat and, accordingly, require more surface structures. Farming larger mussels results in increased debris falling to the seabed. Accordingly, there will be a perceptible change with a move to mussel spat catching as a controlled activity; and
- (b) Introduced as part of the Plan Change are additional environmental controls, primarily directed at protecting the amenity of adjoining landowners.

20. It follows that what is proposed is, when compared against existing Plan provisions, the most efficient and effective means of achieving the objectives in the Plan and the purpose of the Plan Change.

21. This topic is dealt with in more detail in Schedules 5 and 6.

Assessment of Environment Effects

22. Mussel farms have well known environmental effects. Those effects arise because the farms can be seen, they can have an impact on navigation and use of public space, there are potential effects on the water column due to current attenuation, and potential effects on the seabed due to shell-drop and pseudo faeces. In addition, vessels servicing the sites can impact on amenity. Marine farming is, of course, a significant employer in the top of the South Island and a generator of significant revenue. All of these environmental effects have been assessed in detail in Schedule 1.

23. That information is summarised in the table below.

Effect	Discussion	Cross Reference
Landscape, natural features, natural character and visual amenity.	The farm will be able to be seen by people in the immediate vicinity. The greatest level of effect is experienced by landowners whose properties directly overlook the site. The spat catching site is able to be viewed from the road immediately adjoining the site and also from pull-out areas in parts of Wainui Bay. The Golden Bay community has undertaken a landscape project. The preliminary report, which was issued by a working group, expressly recorded that the Wainui Bay spat catching farm was appropriate in its location. A panel of landscape experts who visited the site considered that,	<ul style="list-style-type: none"> • Sections 11 - 13 of the AEE, Schedule 1 • Golden Bay/ Mohua Landscape Project (see link in Section 11 AEE, Schedule 1) • Wainui Bay Landscape: Expert Panel Workshop, Appendix L

	while Golden Bay might be seen as an outstanding natural landscape in its entirety, and landscapes immediately adjoining the farm have high (but not necessarily outstanding) status, the location of the farm was still appropriate.	
Amenity	There will be effects on amenity, both in terms of the houses overlooking the site, but also for people who recreate in the immediate vicinity of the farms. Those effects will be mitigated to the extent practical by the conditions imposed by virtue of this Plan Change. In addition, the consent-holders are all parties to the Code of Practice for Wainui Bay and other wider industry documents.	<ul style="list-style-type: none"> • Section 13 AEE, Schedule 1 • Proposed amendments to the Plan, in particular 25.1.3.1(ga), Appendix A • Marine Farming Association Standard Operating Procedures, Appendix M • Code of Practice for Wainui Bay, Appendix N
Benthic Assessment	NIWA has undertaken an assessment on this site. There are effects; however, those effects are not measurable beyond the boundary of the site. On the site itself there will be measurable current attenuation, and seabed deposition. Spat catching, due to the size of the organisms grown, has no measureable impact on organic enrichment and sediments, although some shell litter was observed beneath the dropper lines.	<ul style="list-style-type: none"> • Section 14 AEE, Schedule 1 • NIWA Ecological Report 2015, Appendix G • NIWA Ecological Report 2007, Appendix HI
Navigational Safety	The Harbourmaster has commented to say that, so long as lights and radar reflectors remain in accordance with applicable standards, there is no navigational safety-related reason why the sites cannot continue in their current form.	<ul style="list-style-type: none"> • Section 16 AEE, Schedule 1 • Email from Harbourmaster, Appendix PQ
Economic	The revenue from domestic and export sales of mussels grown from Wainui Bay spat is in the region of \$126 million annually, and industry revenue is	<ul style="list-style-type: none"> • Section 18 AEE, Schedule 1 • Section 32 Economic Evaluation, Schedules 5 and 6

	expected to increase in the future. Spat caught at Wainui Bay goes on to grow roughly 50% of the mussels farmed in the top of the South Island.	
Employment and Social	The process of growing, harvesting and processing the mussels sourced from Wainui Bay spat employs 510 people fulltime in the top of the South Island. Such a figure can be multiplied to incorporate indirect and direct employment on a nationwide scale, which amounts to approximately 1326 fulltime positions. The beneficial effects for the local community stemming from the farms is outlined in detail in Section 19 of the AEE.	<ul style="list-style-type: none"> • Sections 19 and 20 AEE, Schedule 1 • Section 32 Economic Evaluation, Schedules 5 and 6

Consultation

Iwi

24. The applicant has met with Ngati Tama, and they have provided a letter in support of the application in principle, included at Appendix B. The remaining Top of the South Iwi (Te Atiawa, Ngati Toa, Ngati Koata, Ngati Rarua, Rangitane, Ngati Kuia and Ngati Apa) have also been contacted. They asked that a full proposal be prepared as a draft for consideration before they would comment further. The initial draft Plan Change proposal was forwarded to iwi in mid-June 2015, with a request for comment. Follow-up phone calls were also made, with a number indicating the proposal was not a concern to them. A copy of the final version of the Plan Change will be sent to iwi after it is lodged with Council.

Community

25. The Plan Change proposal was first outlined to local residents at the annual Wainui Bay consent holders and landowners meeting held on 12 June 2015 in Pohara. In September 2015 Ron Sutherland consulted with 25 people understood to own property in the Wainui Bay catchment. Contact was by telephone and post initially, and Ron requested that they make contact to facilitate the exchange of information going forward. More details on the landowners contacted can be found in the AEE, at Schedule 1.

Department of Conservation

26. Department of Conservation staff participated in the Wainui Bay Landscape Expert Panel Workshop in September 2014. Ms Anna Cameron in the Christchurch office has since been sent information on the Plan Change proposal.
27. Consultation undertaken up until the date of this Plan Change request is set out in more detail in section 21 of the AEE, at Schedule 1.

Form of Request

28. This Request has been developed in accordance with clause 22 of Part 2 of the First Schedule of the Act, and comprises:
- (a) This Private Plan Change Request outline, which explains the purpose of and reasons for the proposed Plan Change;
 - (b) An Assessment of Environmental Effects, at Schedule 1, which takes into account the factors required by clauses 6 and 7 of Schedule 4 of the Act;
 - (c) Policy tables evaluating the proposal against the relevant provisions of the New Zealand Coastal Policy Statement (at Schedule 2), the Tasman Regional Policy Statement (at Schedule 3), and the Tasman Resource Management Plan (at Schedule 4); and
 - (d) An evaluation of alternatives report (Schedule 5), and corresponding evaluation table (Schedule 6), prepared in accordance with section 32 of the Act.

Yours faithfully
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