



## STAFF REPORT

**TO:** Environment & Planning Committee

**FROM:** Rosalind Squire, Consent Planner, Coastal

**REFERENCE:** RM071049 and RM071050

**SUBJECT:** **WAITAPU FISHING CO LIMITED - REPORT EP09/02/01** - Report prepared for hearing of 3, 4 and 5 February 2009

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### 1. APPLICATION BRIEF

#### 1.1 Proposal

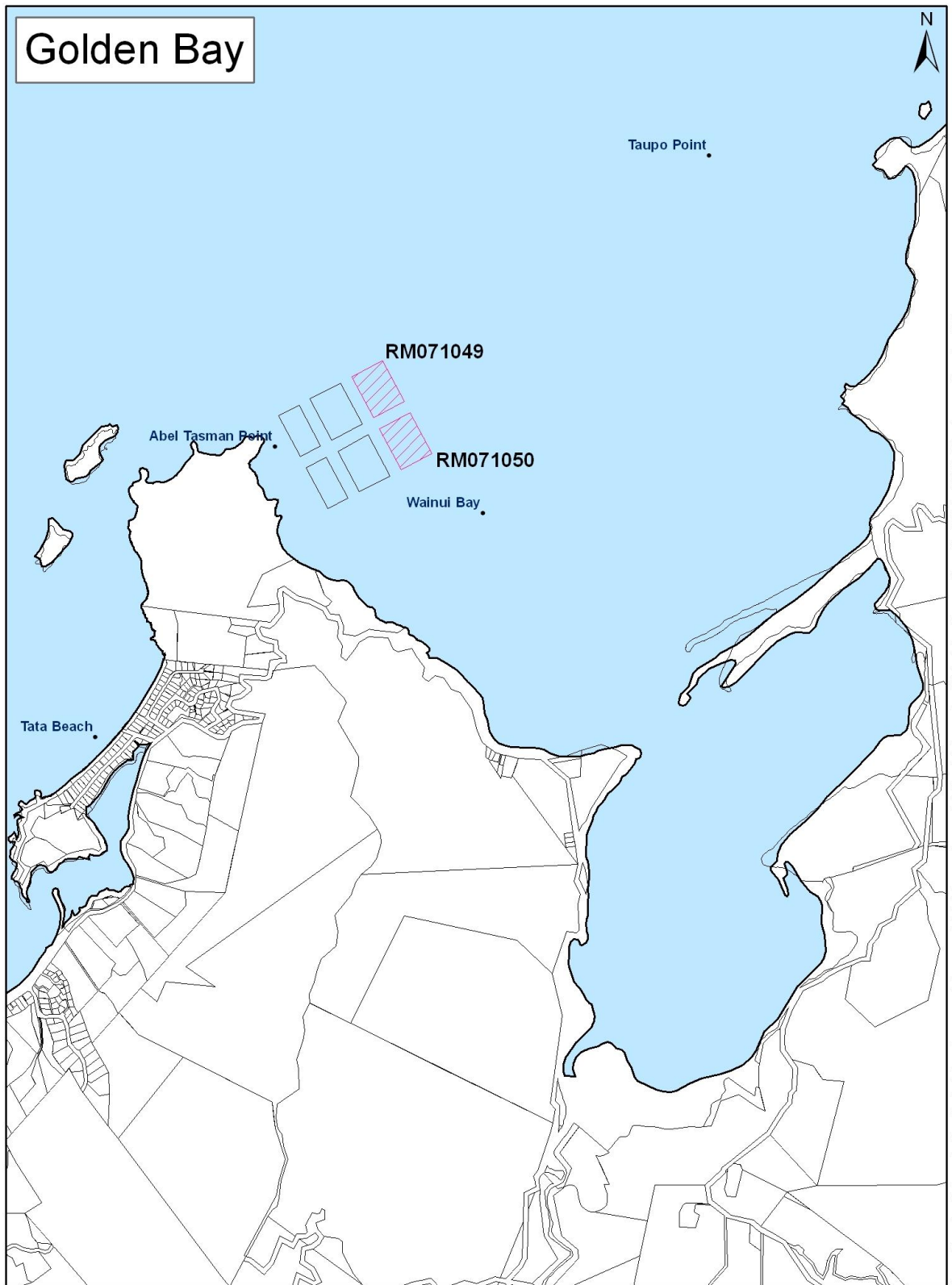
The two applications which are the subject of this report are for coastal permits to disturb and occupy the Coastal Marine Area (CMA) by placing a maximum of 10 longlines up to 140 metres in length within each of two 3 hectare sites for the purpose of farming mussels. The applicant has applied for a 17 year term for each coastal permit. The spacing between the longlines varies from 5 to 28 metres. The depth of the spat catching longlines is 0.4 metres below the sea surface, the depth of the mussel farming longlines is 2 metres below the sea surface. The length of the culture rope suspended from the longline lines is a maximum of 7 metres. The minimum distance between the bottom of the culture rope and the seabed is 2.29 metres.

#### 1.2 Location

The application sites are located approximately 450 metres offshore from Abel Tasman Point in Wainui Bay, Golden Bay. They are the two seaward farms within the existing block of six shown in Figure 1 and 2 below.



**Figure 1 – Block of existing six marine farms**



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Resource Consents on Aquaculture Sites

July 2008

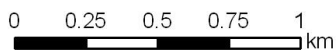


Figure 2: Location of Application Sites

### 1.3 Existing Status of Farms in Wainui Bay

The inner four farms at Wainui Bay were authorised by marine farm licences in 1980 under the Marine Farming Act (MFA). Under the Aquaculture Reform (Repeals and Transitional Provisions) 2004 Act (ARA 2004) these four marine farm licences are now deemed coastal permits (RM060291F, RM060292F, RM060293F and RM060294F). These deemed coastal permits were due to expire in July 2008. However, their expiry dates were extended by the reform legislation to 1 January 2025.

The outer two mussel farms which are the subject of these applications were originally authorised in 1992 (NN925445 and NN925446) expiring in September 1994. The applications were renewed in 1998 (NN940213 and NN940214) with a 31 August 2008 expiry date to be consistent with the inner four farms. The assessment of the effects on the environment undertaken in 1998 considered that the effects on the environment of the two outer farms were no more than minor in the context.

The applicant also holds two spat catching permits authorised under the Fisheries Act 1986 (401 and 402) for the same sites. These are now deemed coastal permits (RM940213F and RM940214). Their original expiry date was 27 March 2005. However, the ALRA 2004 extended their expiry dates to 31 August 2008 which is the same expiry date as the existing corresponding coastal permits.

The actual length of the longlines at the site is 140 metres which is 30 metres longer than that provided for in the existing coastal permits (110 metres). The application is to authorise this increased length.

The two applications (RM071049 and RM071050) were lodged six months prior to the existing coastal permits expiring. The marine farms are currently operating in accordance with section 124 of the Resource Management Act <sup>1</sup>(RMA 1991).

## 2. PLANNING CONTEXT

### 2.1 Aquaculture Reform (Repeals and Transitional Provisions) Act 2004

Section 45 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 states that the area of a deemed coastal permit is a deemed Aquaculture Management Area (AMA).

Subsection 3 states that the area is deemed to be an AMA for the purposes of the principal Act and, if the relevant plan is not operative, the relevant plan must be treated as if it were operative.

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<sup>1</sup>

Where the holder of a resource consent that is due to expire—

- (a) Applies to the appropriate consent authority for a new resource consent for the same activity no later than 6 months before the expiry of the original resource consent, the holder may continue to operate under the original resource consent until the application for the new resource consent and any appeals have been determined; or
- (b) Applies to the appropriate consent authority for a new resource consent for the same activity in the period beginning 6 months before and ending 3 months before the expiry of the original resource consent, the holder may (if the consent authority in its discretion so allows) continue to operate under the original resource consent until the application for the new resource consent and any appeals are determined.

Subsection 4 states that the deemed AMA is subject to the provisions of the regional coastal plan or proposed regional coastal plan that applies to the area.

Subsection 5 states that an area that is deemed to be an AMA by this section ceases to be an AMA if the plan that applies to the area becomes operative after the commencement of the Act and does not provide for the area to continue to be an AMA. The aquaculture section of the TRMP (TRMP) is not yet operative, when this section of the plan does become operative the Wainui Bay sites are not provided for as AMA's. However, the Resource Management Amendment Act (No 2) 2004 section 6 added a new section 12B to the RMA, which states: "To avoid doubt, a coastal permit for aquaculture activities does not expire because the area or part of the area that the permit relates to subsequently ceases to be in an aquaculture management area." We interpret this as meaning that despite the deemed AMA status falling away from the Wainui Bay sites when the plan provisions are made operative, any permits authorised before that date can continue to operate until their expiry date.

## **2.2 Transitional Regional Plan**

Under the Transitional Regional Plan marine farming on the six Wainui Bay sites is a discretionary activity by virtue of Gazette Notice No. 3286: Ag 9/6/22/7 published in the N Z Gazette No. 125 on 10 July 1984 (See Appendix A).

## **2.3 Tasman Resource Management Plan (TRMP)**

The TRMP was notified on 25 May 1996. The aquaculture provisions of the Regional Coastal Plan were appealed by various parties, the Environment Court heard the appeals and a final report was sent to the Minister of Conservation, TDC and referrers in December 2004. The Minister of Conservation approved the aquaculture provisions of the Regional Coastal Plan in June 2005. Although the rules are to be treated as if they are operative under section 19 of the RMA 1991, the coastal section of the plan is not yet operative. The reason for this is that although the Minister of Fisheries has released his final decision on the interim AMA's, Council has yet to resolve the issue of the 20% allocation to iwi.

Rule 25.1.5FF is the relevant rule in the Plan with respect to these applications.

### **25.1.5FF Discretionary Activities (Mussel Farming at Wainui Bay)**

The occupation and disturbance of any site in the CMA by structures, and the use of those structures, for mussel farming is a discretionary activity if it complies with the following standards and terms:

- (a) The activity is at Wainui Bay on the site of a coastal permit or marine farm licence that existed on 25 May 1996; and
- (b) The activity uses longline structures, incorporating surface buoys.

Resource consent is required. Consent may be refused, or conditions imposed. In considering applications and determining conditions, Council will have regard to the following matters as well as other provisions of the Plan and the Act.

1. Degree of exclusive occupation, if sought.
2. Treaty values.
3. Type, scale, location, density and integrity of structures.
4. Ecological matters, including monitoring.
5. Natural character.
6. Navigation, including the form of compliance with Maritime Safety Authority guidelines for the marking and lighting of aquaculture structures.
7. Management of biosecurity risk organisms, such as Undaria.
8. Duration of the permit.
9. Financial contributions, bonds, covenants, administrative charges.
10. Timing and purpose of reviews of any or all conditions.

In addition, there are a number of standard conditions outlined in the Court's decision which (to the extent that they are applicable) will be applied to any coastal permit granted under this rule.

The prohibited activity rule specifically excludes the sites at Wainui Bay:

#### **25.1.5GG Prohibited Activities (Mussel Farming)**

- (a) The occupation and disturbance of any site in the CMA by structures, and the use of those structures, for aquaculture activities in the Aquaculture Exclusion Area, is a prohibited activity for which no resource consent application will be received or granted; except for the sites of the marine farm licences and coastal permits that existed at Wainui Bay on 25 May 1996.

### **3. SUBMISSIONS**

The applications were publicly notified on Saturday, 9 August 2008, submissions closed on Friday, 5 September 2008. There were 388 submissions to the application as summarised below:

#### **3.1 Submitter Summary**

##### **There were 25 submitters opposed to the application who want to be heard**

James Albert Beard, Brian Cahusac & Deanne Bush, De Lambert Family Trust (This is a Trust submission on behalf of all Trust members and reserves a right for all 13 members of Trust to be heard), The Royal Forest and Bird Protection Society, Joseph Blessing, Brook Weatherwell, Friends of Nelson Haven and Tasman Bay Inc, James (Jim) Horton, Susan Jessie, Friends of Golden Bay, Judith Hoch & John McKie, Anna Mary Wright (Anatimu Trust), Edwina Schulman, Warren Hoy, Keith John & Janet Florence Watchman, William Pascal G Hunt, K A Hoos, Jillian Ruth Foxwell, Darren Ian Foxwell, B J C Weston, Virginia Henderson, Richard and Amabel Walker, Robert Murray Gavin, Frans Muter, Jessica Trevino.

##### **There were three submitters in opposition who do not want to be heard**

Tyson Daniel Hammond, Corinna Alex, Susan Maree King.

**There were 11 submitters who oppose the application but do not specify if they want to be heard**

Lorraine Ahearn, Marlene and Mike Bradley, Glenda St Clair, Kathryn and Bruce Thomson, Philip and Judy O`Connor, Elizabeth Jean Patterson, Philomena Donlon, Maree Ahearn, Marcia Mahutu, Samantha Satterwhite, Val Wing.

**There were 33 submitters in support who want to be heard**

Area 7 Recreational Fishing Group, John Patrick Rose, Carolyn Rose, Sealord Marine Farms Ltd, Peter Richard Woods, Steve Graves, Barry Clelland, Golden Bay Connections, Paul Francis Sangster, Matthew James Rountree, Darryl Peter Dickison, Matthew Russell Benge, Geoffrey Colin Benge, Ivan Oliver Thompson, Neil Victor Hill, Jonathan Owen Howard Tripp, George Whiting, Leslie Robert Clarke, Paul Russell Bennett, Duncan Hughes, Darren Clarke, Barry James Cashman, Kevin Allan Grooby, Ngatuere Duigan, Golden Bay Marine Farmers Consortium Ltd, Victory Marketing Ltd, Sea Health Foods Ltd, Brent Clarke, Allan Kilgour, Ngati Tama Ki Te Tau Ihu Iwi Trust, Sanford Ltd, Steve du Feu, Paul Crockford.

**There were 24 submitters in support but who do not specify if they want to be heard**

Jo Anne Robertson, Jason McKay, Michael John Lusty, Duncan Robert McKenzie, Mark James Page, Joachim Frieriep, Garry Milham, Shirley Katrina Mehrstens, John Forsyth, Stewart James Harvey, Vic King-Turner, John Andrew Joseph Devine, Trish Gray, Karen Newport, Lorraine Marcia Grooby, Belinda Girl, Grant Orr, Bryce Peter Morgan, Ross Vickery, Talleys Group Ltd, Geoffrey Proctor, Garth Edmond Prince, Alan Johnson, Kim Martin Bourke.

**There were 280 submitters in support who do not want to be heard**

Brian Robert Rohland, John Pearce, Richard Langford, Marinda Rohland, Cindy Langford, Luke Brown, Keith Randal Anderson, Steven Wilkinson, Selene Morwood, Mike McKenna, Sharon Michelle Graves, Gary William Makey, David Charles Gowland, Jeffrey Charles Woodward, Rebecca Broadhurst, Lavinia Cornell-Gowland, Ricky Broadhurst, Daniel Norman Bruning, Nola Laureen Drummond, Philip Edmund Walker, Raymond Craig, Robert George Wells, Romilly Mead, Lachlan Campbell, Gloria May Kaka, Michael Page, Joseph Turner Short, Nathan Bruce MacLachlan, Josephine Fleming, Caroline Jane Frieriep, Shaun M Lunn-O`Neill, Cyril Bramley Nicholls, Jacqueline Patricia Robertson, Corey Arthur Emms, Hansi Nieveen, Michael John Sawers, Edward Andrew Dodson, Ernest John Childs, Mary Childs, Yvonne Page, Michael Reynish, Tracey Harvey, Nicholas Josephs, Macgregar Lawrence Baird, Graeme Chamberlain, Philip George Woolf, Trevor Porter, Phillip Thomas, Allen Reid, Gary David McConnon, Fredric Martin Jenkins, Kelly Rountree, Lynley Clarence, David Hubbard, Bruce Stewart Callaghan, Peter James Barnett, Bernal Rod Reilly, Rodger Paul Delang, Kevin Emms Painting, Rex Edward Collier, Brendon John Palmer, Dylan Couper, Jason Lovell, Cherie Hansen, Nicky Hansen, Raewyn Marie Hill, James Patrick Gregory, John Reid, Joanna Mary Clouston, Terence William Goodall, Peter Allan Bickley, Kate Windle, Anthony John Nicholls, Deborah Jane Jones, Tony Sparks, Margaret Anne Palmer, Rosalind Windle, Steven Hambrook, Trudy Page, Lorraine Kay Campbell, Kerry Kirkwood Campbell, Philip Windle, Sharyn Patricia Snowden, Colin Marshall Arnold, Gavin John McKenzie,

Murray Charles Tavendale, Alexander Page Taylor, Nicholas Alexander Tripp, Susan Margaret Bennett, John George Sheridan, Kaye Heslop, Graham Little, Kaye Annette Mickan, Mark Geoffrey Soper, Mike Weir, Gary Hyde, Bernard Reiher, Marcia Robertson, Clifford Noel Robertson, Tony Ernest Cottle, Michael Bruce Hargreaves, Steven Douglas Woods, Joanne Salter, Brian Laurence Bruning, Elizabeth Anne Baty, Paul Noel Davies, John Stuart Ward, David J Heraud, Kerry Lee McCarthy, Stuart Hill, Roger Broadhurst, Irene Bruning, Robyn Lorraine Crawford, Logan John Craig Reid, Nathan John Paye, Joshua Neill Robinson, Ben Smith, Richard William Sixtus, Gary Karl Jacob, John Wilkinson, Leslie Hambrook, Neill William Barnes, Hugh Cropp, Aaron Graham, Daniel John Rountree, Mark Nicholls, Mark Allinson, Graham Ashford, Graeme Kevin Crawford, Graeme Eric Berkahn, R W Freeman, Lindsay M Hill, Emani Soane, Simon Bowden, Craig Kenneth McBride, Ron Fleming, Murray Hugh Turley, Ian Douglas Orange, Melany Ann Rose, Leigh Ann Crocker, Gabrielle McKay, Joseph Wells, Kevin Heberd, John Benjamin Menary, George William Duff, Keith Horton, Holly Wayman, Geoffrey Paul McCleely, D R Jacobsen, Michael Paul O`Connor, Laurence Arthur Barnett, Dwayne Kenning Solly, Tony Goodrick, Gaelene Goodrick, Murray John Foskett, Catherine Rose Barnes, Susan Hill, Johanne Berkahn, Marc Heuvel, Maldwyn Stone, Jen Heberd, Roger Tait, Crowther Reynish, Robert John McTaggart, Patricia McTaggart, Jonathan Stuart Ritchie, David Kerry Snowden, James Peart, Bruce William Chick, Waitapu Engineering Ltd, John Whitaker, Marine Cuisine (2006) Ltd, John Barkley, Gillian MacDougall, Allen Cren, Tammy Ann Salter, Gary Manson, Robert Webber, Christopher Colin Guard, Colin McCauley, Donald Stewart Everett, Ed Keene, Sam MacMillan, Judy Cunniffe, Nicholas Barkley, Shane Ferguson, Sam Barkley, Jo-Elle Abraas, Dylan Leslie Ray, Serena Guy, Phillip Hemi Rose, Martin Potter, Jennifer Hellyer, Daniel Vandenberg, Adrienne Joyce Lister, Wayne Stirling, Michael Paul Matthews, Michel Emily Lee, Grant Gebbie, Tania Anne Roberts, David Alan Henson, Janet McBride, Alan Colin Carey, Gloria King-Turner, Alan George Sowman, Basil LeComte, Brenda LeComte, Holly Quigg, Adam Geoffery Satler, Paula May Sixtus, Francis Norton Fraser, Andrew Templeton, Brendon Garth Strange, Rick Flintoft, David Charles Sixtus, John Borcovsky, Teresa Lusty, Evalyne Lusty, Michael Byrne, Patrick Netto, Harry Norman Holmwood, Tony Codyre, Tracey Smith, Raymond Green, Christine Joy Winter, Chelsea Yanko, Geoffrey John Winter, Jacquelyn Elaine Clarke, Michael Hitchcock, Felicity Hargreaves, Barry Richard Pomeroy, Wayne Bang, Robyn Thompson, Graham J Drummond, Lyndsay Hawken, Michael Drummond, Karalyn Barnett, Colin Hensley, Jessica Brien, Elaine Smith, Amanda Van Lier, Murray Burnett, Lavana West, Stevie Wells, Wally Van Lier, Murray Joslin, Christine Boixo, Glen Thomason, Margaret Hope, Anthony Hope, Anne Norton, John Lawrence Barton, Rex Smith, Mark Leonard Stephenson, Judy Barnett, H Shrigley, Neil Patrick Baker, Jules Adam, Wayne McKenzie, Andrew Cole, Jason Penberth, Colin Curtain, Paul Bruning, Kingsley Stephen Pickering, Kevin William Stevens, Walter Rex Gillard, Grant Keith Pickering, James Parker Joyce, Wendy Gardiner, Tina Marie Foskett, Tanya-lee Holmwood, Angela Bang, Mark Sturgeon, Pohara Boat Club Inc, Laurence Hammond, Gaye Joslin, John A Chapman, Terence George Nalder, Mitch Campbell, David William Hyslop.

**There was one neutral submitter who does not want to be heard**

Nelson Marlborough District Health Board

**There were eight late submitters in support who did not specify if they want to be heard**

Richard John Ray, Greg Banks, Teresa Rupapere, Keith Walmsley, Chris Scott, Anthony McBride, Glen Edward Baumfield, Grant Jared Crosbie and F Byrne.

**There were three late submitters in opposition who want to be heard**

Jason J Horton, de Lambert Family Trust, Jason Horton and Sacha Hoogerwerf.

## **3.2 Summary of Issues Raised in Submissions**

### **3.2.1 Submissions in Support**

The submissions in support make the following comments (Grouped by issue):

#### **General**

- The farms precede RMA and have existing use rights

**Note:** There are no existing use rights in the CMA;

- The applications are for renewal of existing activities on the same sites;
- The activities meet the requirements of the RMA for sustainable management;
- The farms have been unjustly singled out by the Tasman District Council;
- The two sites should be treated the same as the other farms in the bay that are able to continue until 2025.

#### **Employment**

- Aquaculture is sustainable, creates employment, funds Port Tarkohe and promotes clean green NZ;
- The farms directly and indirectly employ up to 30 employees;
- Declining consent would have a negative effect on the four local men working and on supporting industries, such as freighting , processing, fuel suppliers, engineering, marine electronic service and sales, local restaurants and retailers;
- Tasman District Council should support this local industry unless it is seriously detrimental to the environment.

#### **Spat Supply / Quality**

- Marine farmers in Golden Bay rely heavily on spat from the Wainui Farms, as does the marine farm industry in the top of the south generally;



- It is crucial to the marine farm industry to retain the Wainui Farms to manage risk from lack of spat from other parts of New Zealand because of failure of spat to settle or because of spat movement restrictions because of Biotoxin events (both of which have happened in the past);
- The two sites produce a regular supply of spat consistently through winter and summer. In a good year there are one to two catches per winter and three catches per summer;
- The industry relies heavily on the spat to continue to supply mussels for on-growing on to marine farms in Golden Bay and the Marlborough Sounds. Without these sites the logistics, farming costs, environmental costs (increase in fuel usage) associated with farming these sites would increase;
- Spat is crucial to mussel farming;
- Wainui Bay is a unique spat catching area for year round spat catching;
- Wainui Bay is of crucial importance to the Nelson/Marlborough marine farming industry;
- Wainui sites are in the best area to obtain reliable “Golden Bay” type mussel spat;
- Without access to this resource production will be reduced and risk to marine farming business increased as farmers are forced to look at alternative spat source;
- Wainui Bay provides a regular supply of high quality spat with an attractive colour to purchasers;
- The regular supply from Wainui Bay enables the processors to have year round processing.

#### **Location Benefits**

- The farms provide the most economic marine farm in Golden Bay (less fuel);
- The farms are the most sheltered in the Bay;
- The farms are in an area of the Bay that cannot be trawled;
- The farms do not pose a navigation hazard to recreational fishers;

#### **Recreation Benefits**

- The sites provide a safe fishing area for small craft, locals and tourists;
- The farms have become an icon and a feature of the bay for tourists;

- The farms support a large population of small fish, rather like a reef, suggests this in turn helps support the thriving Little Blue Penguin population in the area. Cannot underestimate the attraction this has to tourists who hope to spot these unique birds.
- The site provides a good nursery for yellow eyed mullet, snapper, kingfish dolphins and porpoises;
- The two farms offer excellent fishing opportunities over summer;

### **Environmental Effects**

- After 28 years there have been no apparent adverse effects;
- The consent will have minimal environmental impact based on all scientific information to date.

**3.2.2** Submissions note that if consent is granted, they wish the Council to impose the same conditions as the other four farm sites in the Bay.

### **3.2.3** Submissions in opposition

The submissions in opposition raise the following issues (Grouped by issue):

### **Activity / Status of the Applications**

- Misleading for the applicant to claim that the coastal permits enable them to carry out full mussel farming when the sites are restricted to mussel spat catching as permitted by the marine farming permits issued by the Ministry of Fisheries;

**Note:** the occupation and disturbance of the sites for marine farming was authorised in 1992 and in 1998 by coastal permits NN925445, NN940213, NN925446 and NN940214 under the RMA. The spat catching activity was authorised by spat catching permits MF401 and MF402 in 2000 under the Fisheries Act 1983. These spat catching permits became deemed coastal permits under section 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 for the purposes in the plan (which is for mussel farming).

The two sites are also deemed to be aquaculture management areas under section 45 (3) of the Transitional Act and the relevant plan is to be treated as if it were operative in relation to these sites. The applications for the occupation and disturbance of the CMA to place longline structures for the purposes of mussel farming are made under Rule 25.1.5FF of the TRMP. The previous permits have expired. Any new permit can authorise activities applied for (within what is allowed by the rule), subject to whatever conditions are considered appropriate. It may be appropriate for some previous conditions to be incorporated in any new permit, but Council is not obliged to roll-over all or any previous conditions.

- Legislation accommodates only the inner four farms, the continued existence of the two farms is at the discretion of the Council;
- The Environment Court in its decision on the aquaculture provisions of the TRMP did not guarantee the permanent existence of marine farms in Wainui Bay;
- Now that provision has been made for aquaculture to take place in appropriate areas in Golden bay, Tasman District Council has a responsibility to commence the gradual removal of marine farms from the Bay as their permits expire;
- The application does not comply with the objectives and policies in the TRMP, Rule 21.1.5FF, the New Zealand Policy Statement and the RMA;
- Policy 22.1.2 refers to the provision for the continuation of aquaculture in Wainui Bay for the duration of the existing licences and permits at this location. These sites are outside of the AMA's, policy 22.1.2 infers that once the existing permits for these two farms expire they will be removed;
- Rule 25.1.5B Prohibited Activities (Spat Catching) – If the intention of these decision-makers was to allow for renewal of these licences/permits this would have been clearly stated in this rule;
- The application does not comply with Rule 25.1.5FF as the adverse effects of two marine farms on the natural character of Wainui Bay cannot be avoided, remedied or mitigated;
- Consent is also required under Rule 31.1.6 to take and use inshore water and may also be required to discharge water and contaminants and for other structure related activities;

**Note:** The rule referred is not able nor was it intended to capture this use, any adverse effects on the environment which arise from the placement of marine farming structures in the CMA can be avoided, remedied or mitigated through conditions of the consent to occupy and disturb the CMA.

- Consent may also be required to discharge water and contaminants;

**Note:** The Standard condition (a) in Rule 25.1.5FF prevents any discharge of contaminants, but states that any naturally occurring marine material that is discharged by any organism or from any aquaculture structure is not a contaminant.

- Inadequate assessment of effects on the environment, particularly cumulative water column depletion effects.

## Noise

- Noise generated by the boats wakes residents in the morning;
- Noise adjacent to New Zealand's busiest national park is inappropriate;
- More mussels means more noise, the less the better;

- Noise pollution in very early and/or late hours;
- Despite being 440 metres above sea level a submitter notes that he is often disturbed by noise from the mussel barge activity, often this is during the more peaceful hours;
- Noise pollution at harvest time is a huge disturbance;
- Boats emit a low frequency humming noise and loud music in the early hours of the morning often around 5.00 am – 6.00 am;
- Noise wakes submitter from sleep, submitter wonders how to create some limits to activity. Acknowledges that the noise would not be at a level that the noise control office would find unacceptable. However, it has a resonance or vibration that is very irritating and disturbing;
- Service craft can be clearly heard especially on calm days;
- The audio and visual nuisance getting more is getting too much sometimes 18 hours a day;
- The noise of the boats engines and radios can be heard from all over the bay. The submitter acknowledges that this has lessened since the last resource consent application but it is still happening;
- Removal of sites will significantly reduce negative effects;
- When submitter is at the beach the sound of boats and machinery are dominant over the sounds of nature;
- Noise coming from the farm has been loud and disturbing;
- The noise of engines of the boats servicing the farm is disturbingly loud;
- Allowance for just the radio for operating purposes not music at 5.00 am in the morning, this goes against any genuine attempt to preserve the natural beauty of Wainui Bay;
- Noise coming from the boats causes a nuisance especially in the stillness of the morning (from 2.00 am onwards);
- The working mussel boats and lights produce noise at time of day that would be deemed unacceptable to most;
- Constant drone of engines at all hours of the day, radio noise carries across the water. The working hours are irregular, sometimes all night long and often at very early hours of the morning;
- Noise from boats carries across water and is made worse by the irregular working hours;

- Noise can be heard well inside the National Park, removal of the outer two farms would significantly reduce the apparent size of the overall operation and reduce the amount of noise coming from them;
- When the boats work on the farms the area becomes effectively an industrial zone operating 24 hours a day. Successive boats have become larger and noisier, often there are two boats working at the same time and occasionally three. From houses the noise is extremely irritating, especially at night;
- The noise from the mussel boats is particularly frustrating, the window for the activity runs into the early morning hours when people are sleeping, noise is amplified by tides.

### **Landscape / Visual Amenity**

- Mussel farms detract and are totally inappropriate in an area of natural beauty;
- The farms create visual pollution;
- The farms detract from the natural beauty of the area, the removal of these farms would be a move in the right direction in returning to bay back to its natural beauty;
- Wainui Bay is part of a region of outstanding natural character comprising most if not all of Golden Bay and great care should be taken to protect such quality for the benefit of future generations;
- The Environment Court's first interim decision notes that "while we accept that commonsense would suggest that there is advantage in locating marine activities as close to modified areas of the coastline and coastal water as possible, the witnesses, some expert some lay, were quick to point out that inshore modifications from marine farms are generally intrusive of visual amenity and altogether objectionable in the Golden Bay environment. Certainly the Wainui Farm as a matter of fact qualified for such opprobrium in natural character and landscape terms";
- It is inappropriate to have such development in Wainui Bay at the entrance to Abel Tasman National Park;
- Wainui Bay has been declared an area of outstanding beauty it is also the northern entrance to Abel Tasman National Park. The removal of the last two farms would reduce the negative effects on the area and would be a step towards the return of the bay to its natural state;
- The values that comprise natural character have already been impacted. Removal of these farms, and time, will go some way to restoring and rehabilitating the natural character of this western edge of Wainui Bay;
- Wainui Bay has been recognised for its 'outstanding' landscape/seascape values by the Environment Court, and others with responsibility under the RMA;

- A report produced by Earl Bennett (Consultant for the Department of Conservation) concluded:
  - i) The shoreline is the most significant contributor to the quality of the landscape;
  - ii) The visual effects of the farms is most significant from the Wainui Bay lookout;
  - iii) While there are differing levels of effects with changes in the weather and light conditions, and the angle of the view, these apply primarily to views from water level;
  - iv) Because the view from the Lookout is from above, there is little amelioration of the effects of the marine farms by changes of weather, light, and angle of view;
  - v) Wainui Bay has historic and high scenic significance;
  - vi) Wainui Bay should be seen as an undeveloped complement to the higher level of development at Tata Beach;
  - vii) Retention of the marine farms is incompatible with the New Zealand Coastal Policy Statement (NZCPS).
- The TDC commissioned report by Boffa Miskell recommended that consideration should be given to classifying the Wainui Character Area as an outstanding natural landscape;
- The two sites in the bay have been the last straw, even from Taupo Point there is a negative visual impact;
- It is inappropriate to have this sort of industry in this area of natural beauty;
- Marine farm located in a totally inappropriate site, this has already been determined by the Environment Court, do not accept the statements in the application which acknowledge that the impact of the activity is inappropriate but says that the balance of the residue of the existing marine farms will remain and therefore the inappropriate impact will also remain. The area of the farm is a significant contributor in its own right to the adverse visual impact which will be reduced by declining the application;
- The activity will adversely affect the natural character of the area and impact adversely on the high visual quality of the surrounding landscape and seascape;
- Strongly opposed to having mussel farms in Wainui Inlet, they are an eyesore to the bay and completely inappropriate to have in an area of such outstanding beauty;

- Do not believe that Wainui Bay is an appropriate place for the location of any marine farming. Believe that tourism and marine farming are a difficult mixture because marine farms create a grid effect on the sea turning it into a non-natural area of water that cannot be used for kayaking or swimming and which is supremely ugly from every direction;
- The Landscape report in the application failed to provide or consider the view of the farms from the beaches and rock promontories adjacent to these sites, on a clear day the farms are very obvious especially from the road and from vantage points further east;
- The whole of Wainui Bay is an outstanding landscape area of national importance and these structures need to be moved a few kilometres out to sea;
- The structure is not harmonious with the natural beauty of the bay;
- The seascape is crucial to preserve;
- Negative visual impact of buoys viewed from sea level, above and from home, identify the mussel farm as ugly;
- Sites A and B have the biggest negative visual as they stick out in to the bay;
- Farms detract from the high natural character of the bay, the two farms are the most visually obtrusive.

### **General Amenity / Recreation**

- Mussel farms completely inappropriate to the values of Wainui Bay and the adjoining Abel Tasman National Park;
- Days on the beach are interrupted by boat motor noise and radios;
- Visual impact disturbing to the natural surrounds;
- Farms encroach on rights of future generations to enjoy this beautiful and serene environment;
- Presence of the farms diminishes peoples enjoyment of the coastline;
- The area immediately surrounding the farms is used regularly, the mussel farms are very obvious from beaches and rock and they do have an impact with regard to the use of the marine area in the bay. It is less desirable to fish, sail or swim in what at times seems like an industrial area. The mussel farms limit safe harbour for boats and access to the bay. There is a constant interruption to what used to be a very untouched, quiet and private space;
- The area has some beautiful beaches and swimming spots, but submitters don't go there because of the farms.

## **Light**

- Lights from vessels working at night and early mornings are so strong as to feel like search lights beaming into the house;
- The lights from the boats are incredibly bright and can be seen clearly from submitters house and any others that look out over Wainui Bay;
- The lights coming off the boats are very bright, this effects the locals as well as people visiting the park;
- Bright lights from boats working on the farm light up submitters home at night, this is annoying;
- Dazzling bright lights on the working boats at night.

## **Proximity to Abel Tasman National Park**

- Visitors appalled that the entrance to the National Park allowed to develop in this way with the associated debris, noise and lights;
- Mussel farms completely inappropriate to the values of Wainui Bay and the adjoining Abel Tasman National Park;
- Location of marine farms adjoining one of New Zealand's national treasures the Abel Tasman National Park is completely inappropriate;
- Abel Tasman is a renowned Park and this farm is compromising its beauty;
- Site is in close proximity to one of New Zealand's top destinations, it is an unattractive sight when approaching Wainui Bay and can be seen from Wharewharangi or along the shoreline from Taupo Point;
- Located at the beginning of our picture perfect Abel Tasman National Park;
- This activity is inappropriate so close to a national park and in an area internationally renowned for its scenic beauty;
- Visual impact on the internationally renowned Abel Tasman National Park from the coastal track;
- Eyesore in an internationally famous scenic area;
- The first view of the National Park is compromised as is the silence that exists at the Park, Reducing the activity by a third will reduce the visual impact significantly.

## **Effects on the Marine Environment**

- Industrial factory operation has a direct impact on the nutrient flow at the beginning of the food chain;



- The excessive food consumption of the extractive operation exceeds that of perched mussels;
- Submitter no longer collect cockles due to concern about possible contamination by the thousands of metres of lead core rope;
- Submitter questions the environmental impacts of lead core rope;
- On these particular sites the effects on the benthic environment have been identified as being minimal, this is because the sites have only been used for the growing of spat. Nevertheless the report shows that there have been alterations to the benthos, if the sites were to be granted until 2025 and/or used for mussel farming the lack of tidal currents will encourage a build-up of detritus which will mean that when these farms are renewed the benthic environment will take longer to recover;
- Concerned that the monoculture is having disastrous effects on the seabed below and surrounding the farm, believes that the ecosystem is out of balance because of the effluent from mussels and other unknown effects;
- Opposed to the farms because of the damage they do to the ecosystem.

### **Debris**

- Wainui Bay beaches often polluted by mussel farm debris such as bits of rope and floats;
- Debris such as buoys scattered up onto these beaches;
- Debris is regularly washed up on pristine beach;
- Debris on the shoreline including twine, rope, plastic rubbish and plastic buoys;
- Have noticed on many occasions debris from the existing mussel farm on the beautiful beach;
- On numerous occasions submitters have collected debris from the mussel farms from the surrounding beaches.

### **Compliance with Existing Consent Conditions**

- Submitters note that the aerial photograph submitted with the application indicates that 14 lines have been placed in the water at times rather than the 10 provided for in the existing resource consent and that some lines have been placed outside the area authorised;

**Note:** Although the aerial photographs submitted with the application show 14 lines at the site the most recent photographs confirm that there are now only 10 lines. Recent compliance monitoring confirm that the lines are now confined to the authorised area.

- Submitters have observed lines extending way beyond the original designation;

- The original consent was for 10 lines on each plot, Waitapu Fishing has a history of non compliance shown by the aerial photo of the farms 14 longlines and lines outside the given area;
- Non-compliance with consent conditions is unacceptable.

### **General**

- Corporations requiring the factory accept no responsibility for impact on the ocean ecosystem, nor the need to provide alternative employment for factory operators;
- The factory operation is in direct conflict with the National Parks Act 1980 and the Resource Management Act 1991;
- Farms could be located further offshore;
- No Benefit either financially or practically to the people who own and/or live in the area;
- The proposed activity will constitute a navigation hazard;
- The application makes reference to the economic impact on the fishing industry and local workforce, submitters observation is that significantly more people are either directly or indirectly employed in the tourism industry. Surely there are alternative and less obvious sites for this type of industry out of the eye of visitors;
- After storms floating buoys which have come adrift are dangerous to small craft;
- Intensive industrial activity has no place in Wainui Bay.

**3.2.4** Submissions note that if consent is granted, they wish the Council to impose the following conditions:

- Hours of operation be limited to between 9.00 am – 7.00 pm;
- Site including all others when the rest of the consents come up for review in 2025;
- Less noise from boats, slower driving around islands;
- Whole farm to be removed in 2025.

**Note:** A letter was received from the Department of Conservation within the submission period. However, the letter specifically states that it does not constitute a formal submission. It states that the Department neither opposes nor supports the grant of the consents under the terms sought. It notes that the effects of the marine farming at the two outer sites must be considered in the context that the adjacent marine farms will remain and form part of the environment on which such effects will occur. It also notes that the Department lodged a submission to the two initial applications and that their submission stated that any renewal should be concurrent with the marine farm licences in Wainui Bay to enable the marine farms in this location

to be re-assessed at the same time and the term of the existing coastal permits was set on that basis. The letter also notes that the Department is taking the same approach in respect of the current applications. However, they would like to signal that they believe that all of the marine farms should be removed from Wainui Bay once the deemed coastal permits and any concurrent permits have expired; or earlier, if the permits are surrendered or cancelled. This reflects the Environment Court's finding that (collectively) the marine farms have a major effect on natural character and visual landscape amenity values, which indicates that marine farms are inappropriate at this location.

## **4. STATUTORY CONSIDERATIONS**

### **Resource Management Act**

#### **4.1 Section 104**

1. When considering the application for resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to—
  - (a) any actual and potential effects on the environment of allowing the activity; and
  - (b) any relevant provisions of:
    - (i) a National Policy Statement;
    - (ii) a New Zealand coastal policy statement (NZCPS);
    - (iii) a Regional Policy Statement (RPS);
    - (iv) a Plan or Proposed Plan; and
  - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
2. When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect.
- 2A. When considering an application affected by section 124, the consent authority must have regard to the value of the investment of the existing Consent Holder.

#### **4.2 104B Determination of applications for discretionary or non-complying activities**

After considering an application for resource consent for a discretionary or non-complying activity, a consent authority:

- (a) may grant or refuse the application; and
- (b) if it grants the application may impose conditions under section 108.

## 4.3 Assessment

### 4.3.1 Assessment of the Actual and Potential Effects on The Environment

When considering the applications and determining conditions, Council is required to have regard to the following matters as well as other provisions of the Plan and the Act:

- degree of exclusive occupation if sought;
- treaty values;
- type, scale, location, density and integrity of structures;
- ecological matters, including monitoring;
- natural character;
- navigation, including the form of compliance with Maritime Safety Authority guidelines for the marking and lighting of aquaculture structures;
- management of biosecurity risk organisms, such as Undaria;
- duration of the permits;
- financial contributions, bonds, covenant, administrative charges;
- timing and purpose of reviews of any or all of the conditions.

These matters are assessed below.

#### (a) Degree of exclusive occupation, if sought

##### Exclusivity of Occupation

The surface structures proposed are the same as those currently deployed with standard 330 litre mussel floats buoying up to 10 longlines within each site with a varied spacing from 5 – 28 metres (See Figure 3 below). There is a 55 metre wide navigation corridor between the two sites in a north-east south-west direction and a 50 metre wide separation from the adjoining farms to the south west. The sites are located to the east of Abel Tasman Point and adjoin the south eastern side of the reef that extends off the point. The depth of the water at the site at low tide varies from 10 to 9.75 metres (See Figure 5 below).



**Figure 3: Photograph of existing longline structures**

Exclusive occupation is not sought as part of these applications. The activity involves the occupation of the CMA by longline structures but not to a degree where recreational users of the CMA are excluded. Submitters note that the farms provide a safe fishing area for small craft and fishing opportunities over summer. Commercial fishers are excluded by virtue of the comparatively small separation between the longlines. However, the effects of the activity on the commercial fishery were not considered to be undue when the Ministry of Fisheries made their assessment of the spat catching applications (now deemed coastal permits RM0940213 and RM940214). Commercial and recreational fishing interests have submitted in support of the application.

### **(b) Navigation**

The Maritime New Zealand Guidelines for the location of AMA's state that they shall not unduly impede access to any bay, recommended or recognised anchorages or mooring areas and shall not unduly impede navigation in the bay. They also state that AMA's shall be kept clear of recognised navigation routes, navigational bottlenecks and port approaches and that a clear accessway of at least 50 metres should be provided between mean low water and the boundary of the AMA in order to permit small craft to navigate along the shoreline. Although I acknowledge that these guidelines are to provide assistance for establishing the location of AMA's I consider that as a guide they can equally apply to this assessment.

The sites which are the subject of this application are located in the lee of Abel Tasman Point and the offshore reef (See figure 4 below). They are not located within a highly frequented navigation route either between Port Tarohe to Golden Bay or from Golden Bay generally to the western shores of Abel Tasman National Park or Separation Point (See Figure 5 below). There are no jetties, ski access lanes or other facilities for boats in Wainui Bay.





**Figure 4: Navigation route between reef and marine farm**



**Figure 5: Photograph illustrating inshore navigation route between settlements to the south and Separation Point to the north**

The New Zealand Cruising Guide which is written by mariners who have a lot of boating experience states the following:



“The eastern side of Abel Tasman Point provides good shelter from sea breezes and other W to N winds. The rocks that extend north-east from the point protect the area as do the mussel rafts. This is a pleasant spot for anchorage during the day but is open to the usual SW to S winds that blow during the evening”.

Although the marine farms are not considered to obstruct general navigation they are nevertheless a potential navigation risk to boats, particularly sailing boats due to their more limited manoeuvrability. However, the likelihood of vessels navigating in the vicinity of the sites is considered to be limited in scale and frequency due to their location outside any recognised navigation routes, their proximity to the shoreline, the adjoining reef and the existing four inner marine farms which are authorised until 2025.

Over the past 10 years no reports of navigational or recreational vessel impediment or accident have been received by the Harbourmaster. For the above reasons the effects of the proposed two outer marine farms on navigation are considered to be no more than minor.



**Figure 6: Location of the Deemed AMA's at Wainui Bay**

### **Navigation Aids**

The existing coastal permits require the placement of two navigation buoys, one on the north west corner of the north western site (RM071049) and on the south east corner of north eastern site (RM071050). Each navigation buoy is required to be marked with an orange buoy fitted with a light placed at least 1 metre above sea level, all lights are required to flash yellow five times every 20 seconds, with a range of not less than 1 nautical mile. Each light carrying navigation buoy is required to

carry radar reflectors. TDC compliance reports note some non compliance with this condition.

The general requirements for the provision of navigation aids in the Maritime New Zealand Guidelines for offshore farms (farms greater than 200 metres from MHWS) require the corners of any site to be marked using special marks with the following characteristics:

- (i) The light must be yellow and flash five times every 20 seconds.
- (ii) The light must be at least 2 metres above water level.
- (iii) Have intensity as specified in the technical specifications at the end of this section, so as to be visible at a minimum range of 2 nautical miles.
- (iv) For the purpose of navigation and safety, harbourmasters may require radar reflectors to be fitted on these special marks. Such reflectors (active, passive or top-mark) to be detectable at minimum 2 nautical miles in all sea conditions reasonably anticipated at the site.

For the purpose of navigation and safety, harbourmasters may require Cardinal marks to be used in addition to special marks which should be placed outside the intended site to ensure that the directions they provide to mariners is the most appropriate for safe navigation near the site.

Although the Guidelines classify the Wainui Bay farms as offshore marine farms (i.e. in coastal waters beyond 200 metres from mean high water springs), the Harbourmaster has the ability to change the category of an offshore marine farm to an inshore farm after giving due regard to traffic density and type of users.

Consultation has been undertaken with the Harbourmaster and he considers that if consent is granted it would be appropriate to change the category of the farm to an inshore farm with reduced navigation aid requirements which are more appropriate in this inshore location. This will minimise the adverse effects on the visual amenity of the area during both day light and night time hours. These include special marks located at the northern corner of the area authorised by RM071049 and at the eastern corner of the area authorised by RM071050. The light shall be yellow, set to group flash 5 times every 20 seconds, be visible for at least 1 nautical mile and be at a height of at least 1 metre above sea level. Radar reflectors/reflective tapes shall be provided in association with the special marks.

## **(b) Treaty Values**

Treaty values associated with aquaculture activities include:

- (a) pollution and degradation of kaimoana beds;
- (b) degradation of customary fisheries ecosystems;
- (c) imposition and lifting of tapu rahui;
- (d) access to customary coastal resources.



Consultation with Manawhenua Ki Mohua was carried out during pre application consultation and a Treaty Values report was commissioned and submitted with the application. The response from Manawhenua Ki Mohua concluded that Waitapu Fishing Co had complied with sustainable methods for the duration of their coastal permits with minimal ecological and cultural effects on the environment. Manawhenua Ki Mohua did not submit to the applications following public notification.

**(c) Type, scale, location, density and integrity of structures.**

**Type**

The type of structures currently used and applied for are conventional surface longlines with twin parallel ropes approximately 1 metre apart forming each backbone line. Each backbone is supported by up to 50 standard 330 litre mussel buoys with suspended longlines at 0.4 or 2.0 metres depth below the sea surface with culture ropes at 200 mm intervals for catching mussel spat and 750 mm for ongrowing mussels. This is consistent with the standards and terms in the discretionary activity rule for mussel farming at Wainui Bay which limit the activity to longline structures incorporating surface buoys (See Figure 7 below).



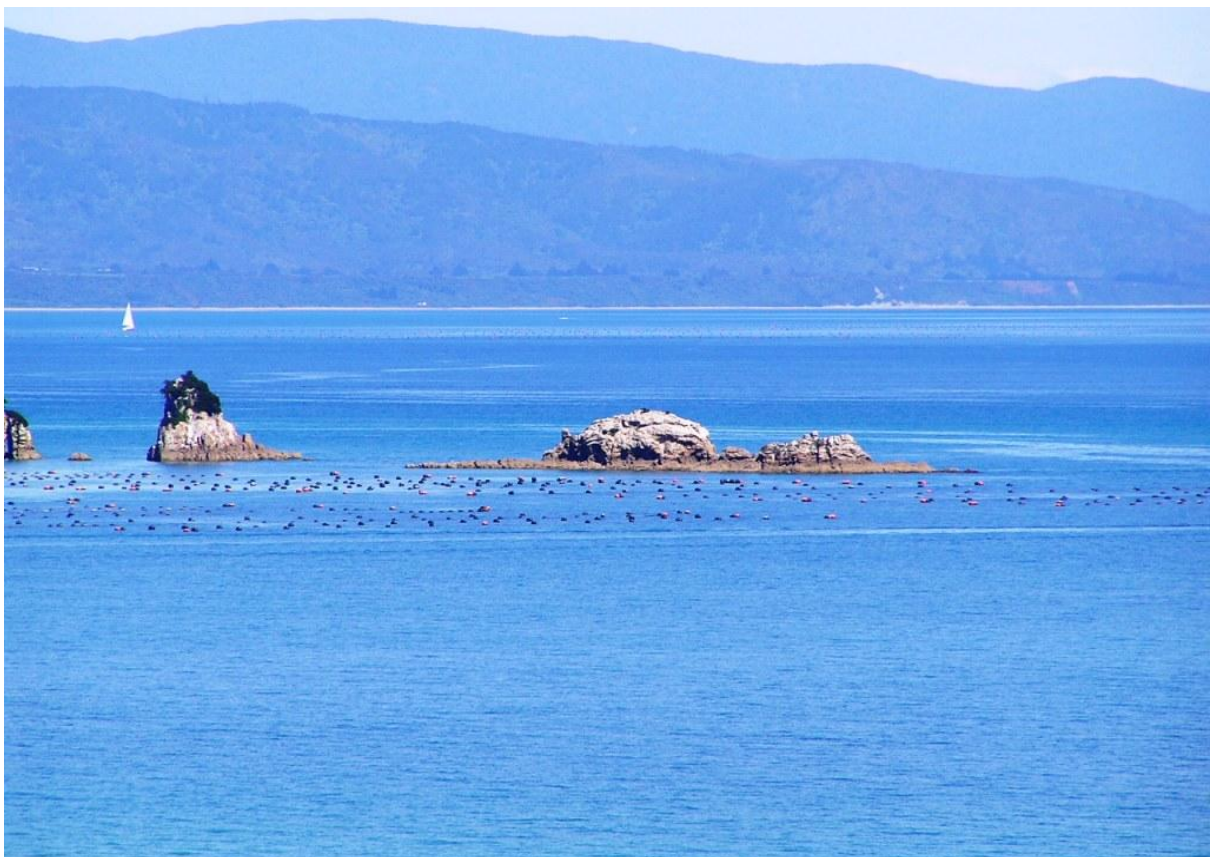
**Figure 7: Longline structures at the site**

## Scale

The area occupied by the mussel farm is defined by the existing coastal permits and the deemed AMA. The scale of the activity is similar to the other mussel farms within Golden Bay and the other four farms within Wainui Bay. The two sites comprise approximately one third of the total area of the existing marine farms and following from that generate one third of the effects. The effects of the scale of the activity on natural character are assessed in section (e) below.

## Location

Submitters have expressed concerns about the location of the structures. Although the location of the structures is a matter which Council has reserved discretion over, it does not have the discretion to require the farms to be located elsewhere. It is a prohibited activity to apply for or grant a coastal permit outside AMA's. The ability to catch spat for the mussel farming industry as a whole in other AMA's can be considered and there are other deemed AMA's currently developed for spat catching. The Golden Bay Marine Farmers Consortium holds coastal permits to catch spat in an area totalling 112 hectares for 12 months of the year at two sites off Collingwood. The Ringroad Consortium holds a coastal permit in Golden Bay to catch spat for 6 months of the year at one of four sites in any year with an average area of approximately 500 hectares (This excludes the areas granted for mussel farming). These sites at their closest point are 2.6 kilometres from MHWS where the adverse effects on the amenity of the coastal environment are minimised (See Figure 8 below).



**Figure 8: Photograph of site with view of offshore spat catching site in the distance**

The applicant and submissions from the marine farming industry stress the high performance of the Wainui Bay spat catching sites and the quality of the spat caught. These benefits need to be balanced against the effect of the existing and proposed site on the amenity of the Wainui Bay area and the marine environment. These effects are assessed in sections (d) and (e) below.

## **Density**

The density of the longlines as applied for is 3.3 lines per hectare (l/ha), at equal spacing this equates to 15 metres between each line (Although I appreciate that for farm management purposes the lines may not be equally spaced). The density of the lines at the four other sites in the bay are 4 l/ha on the two three hectare sites in the middle of the block, this equates to 12.5 metres between each line, and 5 l/ha on the two inner two hectare sites, this equates to 10 metres between each line. The conclusions reached from the pre-application environmental monitoring and associated modelling work indicate that the effects of farms on the marine environment at this density have been no more than minor to date, and do not compromise its long term sustainability (Refer section (d) below). The effects of the density of the structures on the natural character of the coastal environment area are assessed in section (e) below.

### **(d) Ecological matters, including monitoring.**

The report by the National Institute of Water and Atmospheric Research (NIWA) submitted with the applications provides an assessment of the effects of the activities on the marine environment. A general discussion of the issues and the results of the survey and modelling work are summarised and discussed below.

## **Hydrodynamics at the Site**

Farm structures and mussel droppers cause a resistance to the hydrodynamic flow, resulting in reduced velocities within the farm area, and disturbance to the flow pattern. Modelling work in the Firth of Thames found that currents measured in the centre of a farm can be significantly lower compared to currents outside a farm. In addition flow tends to be diverted and accelerated around a farm, including below the droppers. Fisheries resource impact studies in small coastal farms in the Marlborough Sounds found that flow retardation seldom exceeded 15%. In Golden Bay bed roughness was applied and a reduction of not more than 10% was predicted.

The assessment submitted with these applications indicates an average dominant tidal current at a depth of 5 metres of 9.5 centimetres per second with a residual current of 3.1 centimetres per second. These currents are considered to be moderate to high compared with many existing mussel farming areas in the Marlborough Sounds and elsewhere in Golden Bay. Current direction is generally aligned parallel to the coast.



The presence of the reef (See Figure 9 below) is considered to have the most significant effect on the hydrodynamics of the site as it presents an intermittent but solid barrier to tidal currents. Whilst the presence of the farm structures (specifically the culture ropes) has an effect, based on the presence of the reef and modelling work undertaken elsewhere, the effects are considered to be no more than minor, particularly in situations like this where the farms are smaller and the sites sheltered.

The application did not provide any information on the effects of the farms on the wave environment. However, modelling work undertaken in the Firth of Thames indicates that wave attenuation resulting from energy lost due to drag between submerged mussel droppers and the water motion induced by waves depends on stocking density, water depth, average dropper length, dropper diameter and width of farm in the direction of wave propagation. Wind wave attenuation for farms in the firth of Thames with periods of three – five seconds were reduced in amplitude by 60 – 80% and ocean swell with periods of 10 – 12 seconds were attenuated 25 - 45%. Wave attenuation for a farm in Clifford Bay was estimated at 20%. Although it is hard to extrapolate from these figures they indicate a degree of attenuation depending on the period for the waves. Whether or not the effects of this are adverse depends on ones perspective, in my opinion they are not.

### **Depletion Effects**

Depletion effects arise as a consequence of filtration of phytoplankton from the water by the mussels growing on a farm. Unless the continuous supply of new phytoplankton to the farm greatly exceeds the uptake by the mussels, a noticeable reduction (or depletion) in phytoplankton will occur.

The studies undertaken in preparation of the application provide an estimate of 10 - 12% removal of phytoplankton from water flowing through the site. This is similar to monitoring undertaken in the Firth of Thames (which is not exposed to the same degree of open ocean flushing) which has recorded depletion rates in close proximity to the farms ranging from 2 – 10%. The depletion footprint from the farms is considered to be comparatively low with a residual depletion within 200 metres of the farm of 5%.



**Figure 9: Reef immediately to the north west of the block of marine farms in Wainui Bay**

Mussels also have the potential to alter the composition of the phytoplankton community by altering the loss rate of certain phytoplankton species with respect to others. The evidence at present points to non-selective feeding, however, since there is a large range of growth rates of phytoplankton species from very fast generation times (few hours) to very slow (many days), mussels have the potential to alter the competitiveness of individual phytoplankton species. Given that this is occurring within a system that is being replenished by unaffected ocean water, the magnitude of the effect is generally considered to be insignificant. Again, biological modelling in the Firth of Thames indicates minor depletion of snapper larvae, fast-growing phytoplankton and zooplankton that were less vulnerable to filtration. Slow-growing plankton, highly vulnerable to being filtered by mussels, may be depleted by up to 10% at the farm.

It is accepted that this level of depletion occurs at this scale of operation and degree of flushing and that this depletion in the Bay will have localised and in the context of the Bay will no more than a minor effect on the sustainability of the marine environment. This is accepted by the Ministry of Fisheries and regional councils in areas where marine farming is occurring.

## **Deposition**

Generally material that is removed from the water column and deposited below or around mussel farms would eventually reach the sediments anyway, the significance of the mussel's activity is that the deposition of faeces, pseudofaeces and dead shell material becomes concentrated in a smaller area than it otherwise would. This leads to associated impacts on the local environment including a change in the nature of the animals living in the sediment.

The assessment submitted with the application concludes that the impact is not severe and that the area below farms is occupied by populations of opportunistic species rather than being devoid of animals. The composition of the seabed at the application site is dominated by soft muddy sediments varying between 54 – 85% inside the farm boundaries to 82 – 94% outside. The lower percentages within the farms are considered to be due to coarser shell material amongst the mud. Side scan sonar images indicate the presence of shell debris beneath the droppers, this is reflected in the video frame grabs.

The application states that modelled deposition of pseudofaeces and faeces indicates that the amount of deposition and its spread is small. The amount of organic material in the samples taken ranged from 3.8 – 5.6% with no redox discontinuity layer observed, indicating that the sites are not enriched enough to show any sign of anoxia. However, the mean percentage of organic content in the sediments within the existing spat farms was 5.1% as opposed to 4% outside the farms indicating slightly elevated organic content beneath the farms. This may be a consequence of reduced current flow through the farm and the armouring effect of fallen mussel shells. Regardless, the elevated levels of organic content are not considered to be a cause for concern and this is reinforced by the infauna present.

The tidal currents at the site are moderate, and play a part in removing detritus and faecal material. However, they are not strong enough to disperse dislodged spat or shells. Modelled distribution of fine detrital material estimates very low concentrations within the farm boundaries with deposition beyond the farm boundaries being limited to 20 – 30 metres from the droppers.

### **Impacts on the Benthic Biota**

The species composition of benthic fauna identified in the assessment of effects was similar to that generally found in mud habitats around New Zealand, no rare species were recorded. In total, 48 taxa were identified with most species occurring both within and outside the farms, however, overall there were more taxa recorded within the farm sites. Although there were no significant differences in mean number of taxa, or mean number of individuals in grab samples within and outside the farms further analysis indicated that different taxa were collected from within and outside the farm.

Video footage indicated few differences between surface dwelling species within and outside the farms, except for the accumulation of shell drop and living mussels beneath the farm site. However, three species, camouflage crabs, sea and cushion starfish were recorded only within the farm boundaries. The kelp *Undaria* was reasonably common on all video tows. Species generally regarded as more intolerant of conditions beneath mussel farms, such as scallops and horse mussels, were found to be common beneath the farms.

The differences in the types of species present, with increased abundances of carnivorous sea stars, crabs and polychaetes worms within the farm sites are comparable with other mussel farms and are considered to be due to the increased availability of food from fallen spat, growing mussels, and other species that have become attached to the shells on the sea floor.

The results of the assessment undertaken in preparation of the application and experience from monitoring undertaken in other locations with lower tidal currents indicate that the effects of the activity on the coastal marine environment are no more than minor. While it is acknowledged that seabed impacts do occur below farms, the extent or severity depends on mussel densities, management practices and environmental characteristics. Results from the assessments made at these sites indicate that the effects on the benthic environment over the period of occupation to date (15 years) have been no more than minor. The tidal currents recorded in the general vicinity of these farms may be sufficient to prevent build-up of organic material in the form of faeces and pseudofaeces in the sediment. The results from side transects and video confirm that the footprint is localised.

### **(e) Natural character.**

#### **Wainui Bay Landscape**

Wainui Bay is a comparatively wide open bay confined by Abel Tasman Point to the south west and Uarau and Taupo points to the north east (See Figure 10). The south eastern edge of the bay is defined by a long sand spit to the north (See Figure 11 below) and a headland to the south which are separated by a channel draining Wainui Inlet (Takapou Bay). The western side of the bay is enclosed by a headland



which at its highest point is 296 metres and is covered by regenerating native vegetation. The north eastern side of the bay is enclosed by the northern most headland of the Abel Tasman National Park which at its highest point is 405 metre above sea level and is also covered by regenerating native vegetation (See Figure 12 below). The bay contains sandy beaches separated by rocky points and the prominent sand spit. The landscape assessment submitted with the application describes the inner bay as more complex with the natural landscape patterns overlaid with farming, the outer bay is described as a more natural, simpler coastal landscape with a generally rocky coastline and some well defined golden sandy beaches.



**Figure 10: Location of the farms in wider Wainui Bay landscape**





**Figure 11: View of the eastern extent of Wainui Bay**



**Figure 12: View of the south western extent of Wainui Bay**



Vehicle access to Wainui Bay is provided by Abel Tasman Drive. The first view of the Bay is provided from the top of Wainui Bay Hill if you pull over off the road at an informal lookout. The lookout is south east of the group of marine farms and elevated some 80 metres above sea level. It is from this lookout that the greatest effect on the natural character of the Bay is felt by residents and visitors alike. The farms present a considerable and visually unavoidable foreground to the seascape of Wainui Bay and the open sea beyond (Refer Figures 13 below). There is no question that the effects of the group of farms on the natural character are more than minor in this location. To my knowledge there are only three properties on Wainui Bay Hill that directly overlook the marine farm sites. The effect of the farms on these properties is without doubt significant. Submissions from these landowners oppose the applications because of the effects on the natural character of the coastal environment and the noise and lights generated by maintenance and harvesting vessels.



**Figure 13: Block of farms from Abel Tasman Drive on a calm sunny day**

Abel Tasman Drive then gradually descends towards the inner bay, crosses the terrace at Takapou Point and follows the southern edge of the estuary. The road then heads inland across the coastal flats until it reaches the boundary of the Abel Tasman National Park and the western end of the Abel Tasman walking track. There is a collection of dwellings some 1.5 kilometres south east of the farms near Burial Point. As far as I am aware the farm sites are only directly visible from one or two of these dwellings. Figures 14 and 15 below illustrate the view from the road. Residents in this location have also submitted that they are adversely affected by the noise and lights generated by maintenance and harvesting activities.



**Figure 14: First view of farms as viewed from the road near Burial Point**



**Figure 15: View of farms from road near Burial Point (Slightly magnified)**

Apart from Tui Community there are only a handful of other dwellings in Wainui Bay. These residences are principally associated with farming activities surrounding Wainui Inlet. Tui Community adjoins the eastern shoreline of Wainui Inlet and comprises a number of dwellings and associated community buildings. The site is located 2.5 kilometres from the eastern boundary of the marine farm sites and is elevated between 5 and 70 metres above sea level.

## **Natural Character**

Natural character is defined in the TRMP as including:

- (a) landform, including natural features and patterns;
- (b) natural processes that create and modify landform;
- (c) indigenous plant and animal species present;
- (d) natural sounds;
- (e) natural water quality;
- (f) absence, or unobtrusiveness, of use and development;
- (g) expansive open space, especially where there is knowledge that undeveloped space is in public ownership; and, in particular, the sea.

The Environment Court has acknowledged that natural character comprises more than the purely visual, and encompasses the ways in which individuals and the communities they are part of perceive the natural and physical resources in question and that the effects of farms on the natural character of an area vary according to the viewpoint of the beholder. Some people view a well set out and maintained marine farm an attractive sight, whereas others view them as an unnatural intrusion into an unmodified seascape.

How obtrusive a farm is depends on where an individual is viewing it from i.e. from sea level or an elevated site, and on the distance, the light, the background, and the scale of the surroundings. On a bright sunny day an inshore farm may appear very dominant from the waters edge. However, on a dull day looking at the same farm it might seem relatively insignificant. The effects of the farm on the natural character and visual amenity of an area during daylight hours are a product of what is seen, and how it is seen. At night, there is the presence of navigation lights (and possibly vessels), which would not otherwise be there.

In these applications the most tangible impacts of the farms are created by the farm structures themselves, principally the unnaturally straight lines caused by the surface buoys. Added to this are the effects of the navigation aids and the visual presence and noise generated by maintenance and harvesting vessels (Refer Figure 16 below).





**Figure 16: Magnified photograph of block of farms from Abel Tasman Drive on the south western side of the Bay**

The structures occupy the site year round. However, the number of floats varies depending on a number of variables, including the weight of the mussels on a particular line at any time. The applicant has confirmed that at full weight a line would require between 40 to 50 floats, plus the orange intermediate and end floats. Over the last three years maintenance and harvesting vessels visited the site between 99 and 125 days per year, with no predictable or “usual” hours of operation.

It is acknowledged that the Wainui Bay area has high natural character values, and that while the landscape is already compromised by development, the landscape is expansive and retains impressive natural qualities. Apart from the presence of the marine farms and commercial and recreational vessels, the seascape remains unaffected by human modification. The surrounding landscape has been modified by human activities throughout its history through the removal of indigenous vegetation and the development of farming opportunities. Roads, access tracks, dwellings, and substantial areas of farmland on the slopes adjoining the National Park and in the coastal lowland areas are part of the existing landscape. Wainui Bay does not have the same density of residential use as Pohara, Tata Beach or Ligar Bay to the south nor does it experience the same level of recreational visitors. Nevertheless, there is an existing low level of residential use and an increasing number of visitors passing through the Bay en route to the western end of the Abel Tasman National Park walking track and/or Totaranui and Awaroa.

An assessment of the effects of the continued presence of the two existing outer farms on the natural character of the area must take into consideration the presence of the inward four farms which by virtue of the legislation, are able to remain on site unchallenged until 2025. The presence of the existing inner four farms and the incremental effects of the two outer farms on the natural character of Wainui Bay are in my opinion the most important issues to consider in the assessment of these applications.

The properties adjoining the western shore of the bay which overlook the site and those at Takapou Point are most affected by the block of six farms both from a visual amenity perspective and from the noise and lights associated with harvesting and maintenance activities. Generally submitters consider these effects to be more than minor. With respect to those properties which directly overlook the marine farm sites I would tend to agree with their submission.

The block of six farms can be seen in the distance (in most weather conditions) from elevated areas on properties located further away from the site on the eastern shore of the inlet and from vantage points on the Abel Tasman National Park walking track (See Figure 17 and 18 below), but the farms are hard to distinguish from the reef behind. The obtrusiveness of the farms depends on the weather and daylight conditions, with the farms being generally more obtrusive on calm, clear days. Their obtrusiveness is also diminished by distance and the presence of the rocky headland and reefs off Abel Tasman Point. Residential and roading developments along the western shoreline of Wainui Bay also tend to distract the viewer's eye and compromise the naturalness of the site when viewed from the eastern side of the Bay.



**Figure 17: Magnified view of the farms from a slightly elevated site at the beginning of the Abel Tasman National Park walking track**





**Figure 18: Elevated view of the site from Abel Tasman National Park walking track**

The two sites appear contiguous with the four other inshore farms. There is no question that the adverse effects generated by the block of six farms on the natural character, landscape and amenity values are more than minor for those properties which overlook the site. However, I consider that these effects are similar regardless of whether there are four or six farms at this site. I acknowledge that the scale of effects is increased with the presence of the two outer farms. However, the issue is whether this incremental effect is more than minor. I acknowledge what submitters state that the two outer farms theoretically increase the overall effects by one third. However, this needs to be considered in the context and an assessment made of the incremental effect of the two farms on the environment.

In terms of the actual area occupied by the farms the two farms at 6 hectares occupy just over one third of the total sixteen hectare site. However, from the vantage point most affected by the presence of the farms, the incremental degree of visual impact of the two outer farms is reduced by their distance from the shore and in my opinion is less than one third of the total (Refer to Figure 13 above).

From more distant vantage points in eastern areas of the bay it is my opinion that the difference between four and six sites on the visual amenity of the area is hard to distinguish. This is illustrated in Figure 19 below.



**Figure 19: Photograph of block of farms from eastern Wainui Bay**

The effect on natural character when viewed from vessels travelling between Separation Point and Tarakohe again depends on the distance the site is viewed from and the light conditions on the day, obviously the further away a vessel is from the site the less the effect. However, from the closest navigation route between Tarakohe and Separation point at a distance of 850 metres or so the sites are visible but do not dominate the landscape. From a closer viewpoint the farms are without doubt a prominent foreground feature as can be seen in Figure 20 below.





**Figure 20: Photograph of two farms from a south west aspect**

In summary, whilst declining consent would reduce the overall effects of the farms on the natural character of Wainui Bay to a degree, it is my opinion that the reduction would not be significant and will not significantly reduce the adverse effects that the remaining sites will continue to cause.

An assessment of the two outer sites was made in 1998 and Council came to the conclusion that the additional adverse effects of the two outer sites on the natural character of Wainui Bay were no more than minor.

### **Noise**

Many of the submitters in opposition to the application express concern with respect to the noise generated by the maintenance and harvesting vessels. The applicant has confirmed that maintenance and harvesting vessels visited the site between 99 and 125 days per year over the past three years, with no predictable or 'usual' hours of operation.

There are currently no rules limiting noise emissions in the CMA within the TRMP. There was lengthy debate on this matter at the Environment Court hearings on the Aquaculture provisions in the Plan and a subsequent appeal from Yachting New Zealand (W012/07). Yachting New Zealand's concern was that the stated purpose of Chapter 24 of the TRMP was to address the potential adverse effects of excessive noise in the CMA, however, the Council did not then propose rules to achieve that outcome.



The Court concluded that the inclusion of noise standards in the plan would be ineffective in implementation and that there would be no benefit in terms of controlling noise in the CMA over and above the use of the existing statutory powers in the RMA (Section 16, 326, 327 and 328 – See Appendix E) or through the resource consent process. The proposed rule was considered to be neither necessary nor appropriate and would not achieve the purpose of the Act. The Court also concluded that it would not be good sustainable management of the CMA's resources to impose an impractical and potentially unenforceable rule on users of the CMA without better evidence of a real necessity for such a rule.

It is noted that the existing consents have the following noise condition:

#### Noise

That all activities related to this site shall meet the following noise standards as measured in accordance with NZS6801:1991 and NZS6802:1991, at any point on land above MHWS:

	Day	Night
L <sub>10</sub>	50 dBA	40 dBA
L <sub>max</sub>		70 dBA

#### Note:

Day = 7.00 am to 9.00 pm, Monday to Friday inclusive and 7.00 am to 6.00 pm Saturday (but excluding public holidays)

Night = all other times plus public holidays.

No broadcast radio station noise is to occur at Site A or Site B.

Notation: Broadcast radio does not include Marine Radio which vessels must have turned on.

The inference from the Court decision is that noise could be controlled through the resource consent process. I have discussed this with the Coordinator, Regulatory Services who was until recently the Harbourmaster/Environmental Health Officer. Whilst he acknowledges that this situation is slightly different to the situation raised in the Yachting New Zealand appeal, he raised a number of relevant issues. Firstly, that a noise limit could be imposed as has been done in the past, however, he is of the opinion that it is highly unlikely that the background noise of the harvesting vessel motor on a calm day would exceed the L<sub>10</sub> limit. His thoughts are that there is sufficient existing statutory power under section 16, 326 – 328 of the RMA to achieve a reduction in the noise from the activity if it is an ongoing issue. He notes that in his ten years working with Council in both Environmental Health and as Harbourmaster he can only recall complaints about noise relating to the Collingwood block of marine farms. He has also checked the Council complaints database and can not find any complaints concerning noise from the Wainui Bay marine farms.

Secondly, Council could limit the hours of operation of the activity. This issue has arisen in the Marlborough District and Environment Waikato and their experience both in Council hearings and in Court proceedings is that it is generally considered impractical to place such restrictions in the context of a marine farming operation.

Harvesting and maintenance activities are already limited by the prevailing weather conditions and other central government and industry imposed harvesting restrictions and a restriction on their hours of operation would further limit their ability to harvest the crop. Nonetheless it is an option which would mitigate the significant concerns expressed by submitters.

With respect to the issue of noise and lights (see below) there remains the issue of the existing four farms. If Council is of a mind to impose a noise restriction or limit the hours of operation of the activity, or require the shielding of lights this could be incorporated into the review of the consent conditions of the other four farms at the site.

It is noted that the industry code of practice recommends the following:

- Boat operators shall be considerate of other users and residents when using radios;
- When possible, boat operators shall not work at night in areas close to human occupation;
- Industry shall maintain a written record of all complaints received regarding noise;
- Boat operators shall respond to any complaints received and where reasonable and possible, adjust their operation to address noise concerns;
- Boat operators are encouraged to maintain boats to ensure that the noise level during all types of operational activities is minimised.

## **Lights**

A number of submitters also express concerns with respect to the light generated by the maintenance and harvesting vessels. Apart from limiting the hours of operation the consent conditions could require the applicant to shield the lights on the vessels in order to mitigate to a degree the effects of the vessel lights on nearby residences.

The Mussel Industry Code of Practice makes no recommendations with respect to minimising the effects of lights on harvesting and maintenance vessels on nearby dwellings.

## **(g) Management of Biosecurity Risk Organisms, such as Undaria.**

The roles of Council and Biosecurity New Zealand respectively in the management of biosecurity risk organisms in association with aquaculture activities is unclear. The TRMP requires that Council considers the management of biosecurity risk organisms. However, Biosecurity New Zealand also has a role in identifying, containing and minimising the spread of unwanted and notified organisms in the marine environment. The Mussel Industry Code of Practice doesn't specifically refer to biosecurity risk organisms, there is a section on encrusting organisms which requires farmers to minimise the amount of organic material falling onto the sea-floor and to minimise the potential for spread of exotic organisms.

It is recognised that the presence of structures in the coastal marine area can provide additional substrate for unwanted organisms to attach to and spread. In order to minimise this from occurring Council has in recent years required Consent Holders to monitor their structures at all times for the presence of unwanted organisms. Following from that the Consent Holder is required to take actions reasonably necessary to minimise the spread of the organism as directed by the Councils Biosecurity Officer (and Bioscurity New Zealand).

#### **(h) Duration of the Permit.**

Although the four existing marine farm licences were due to expire in July and August 2008 the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 extended their terms for a 20 year period expiring on 1 January 2025.

The term of consent applied for is 17 years expiring on 1 January 2025, this coincides with the expiry dates of the four existing deemed coastal permits. If a coastal permit is granted it would be pragmatic to have consistent expiry dates.

#### **(i) Financial Contributions, Bonds, Covenants, Administrative Charges.**

##### **Bonds**

The imposition of a bond in the form of a bank guaranteed instrument is recommended. A bond is recommended by the Maritime Safety Authority Guidelines and has been imposed on other coastal permits for marine farming in Golden and Tasman Bays. The purpose of a bond is to avoid, remedy or mitigate any adverse effects on the environment in the event of abandonment or bankruptcy by the permit holder including longline retrieval, on land disposal of both the structures and any non-harvested marine growth and any remedial works required to restore the site. It will also serve to help cover costs born by the Council in the event of emergency repairs or rescue of part of the structure on behalf of the permit holder in the event of it breaking loose or otherwise causing a hazard to navigation.

##### **Coastal Occupation Charges**

Council passed a resolution some time ago that there should be coastal occupation charges, however it has yet to introduce them into the Plan. A condition is recommended which will enable Council to review the imposition of coastal occupation charges once they have been introduced into the plan.

#### **(j) Timing and Purpose of Reviews of Any or All Conditions**

Review conditions are recommended in accordance with Section 128 of the RMA 1991 to deal with any unforeseen adverse effects on the environment, to require the adoption of the best practicable option to remove or reduce any adverse effects on the environment, to provide for compliance with rules in any regional plan to deal with any material inaccuracies that may be found in the information and to provide for compliance with any changes to navigation aids in response to the MSA guidelines or conditions.

## **(k) Social and Economic Effects**

A number of submitters have expressed concern over the effects of the activity on the tourism industry in Golden Bay, particularly the farms proximity to the Abel Tasman National Park. They submit that the applicant has emphasised the benefits for employment and they raise the converse that more people are either directly or indirectly employed in the tourism industry and that there are alternative and less obvious sites for this type of industry out of the eye of visitors.

The economic and social benefits of both the marine farming and tourist industries are acknowledged, although I do not have any data to make a meaningful comparison, my general impression is that the benefits to be gained from the continued farming of these two sites would outweigh any costs to the tourism industry from their presence. It is noted that Section 104 (2A) of the Resource Management Act 1991 states that when considering an application affected by section 124 (exercise of resource consent while applying for new consent), the consent authority must have regard to the value of the investment of the existing Consent Holder.

### **4.3.2 Part II of the RMA**

Part II of the RMA outlines its **purpose and principles**. These include:

- (a) The purpose of this Act is to promote the sustainable management of natural and physical resources.
- (b) Sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations;
- (c) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (d) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In achieving the purpose of the Act, Council **shall recognise and provide** for amongst other matters the following matters of national importance:

- (a) The preservation of the natural character of the coastal environment (including the CMA), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development;
- (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development;
- (e) The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and
- (f) The protection of historic heritage from inappropriate subdivision, use and development.

In achieving the purpose of the Act, Council **shall have particular regard to amongst other matters the following:**

- (c) The maintenance and enhancement of amenity values;
- (d) Intrinsic values of ecosystems;
- (f) Maintenance and enhancement of the quality of the environment;

In achieving the purpose of this Act, Council shall take into account the principles of the Treaty of Waitangi.

With reference to section 6 (f) of the RMA the submission from the Friends of Nelson Haven and Tasman Bay notes the historic significance of the area as the site of the first recorded contact between Europeans and tangata whenua.

In reference to section 7 (c) it is submitted that the farms diminish the peoples enjoyment of the coastline of the Bay, both in a passive way with respect to the enjoyment of views and in an active way such as kayaking, picnicking etc. and due to the noise generated by the activity.

In reference to section 7 (d) it is submitted that the continued use of the sites for marine farming until 2025 will mean that the benthic environment will take a longer time to recover.

The continued occupation of the two outer marine farm sites is not considered to be contrary to Part II of the Act. Although it is acknowledged that the continued use of the two outer sites does have an effect on the natural character of the coastal marine area and this diminishes peoples enjoyment of the coastline of the Bay, the effect of the two outer farms (when considered alongside the existing four inner farms) is considered to be no more than minor in magnitude and will not further compromise the existing natural character to any significant degree.

Although submitters raise the issue of the landscape character assessment which has been undertaken for Council in which Wainui Bay was identified as a 'Coastal Character Area', there have been no variations to the TRMP to identify any outstanding natural features and landscapes or incorporate any development controls. As such this document can be considered for information purposes only.

Monitoring undertaken as part of this application and results from other small mussel farming sites in similar situations in the Marlborough Sounds and at sites near Collingwood in Golden Bay and the Firth of Thames indicates that (subject to location specific controls) the activity of mussel farming does not compromise the potential of the coastal marine environment to meet the reasonably foreseeable needs of future generations or the life-supporting capacity of the marine ecosystem.

#### **4.3.3 New Zealand Coastal Policy Statement**

The New Zealand Coastal Policy Statement provides national guidance to local authorities in the management of the coastal environment. The objectives and policies in the Policy Statement which are considered to be relevant to this application are contained in Appendix B.

The policy directives of the NZCPS which are considered to be particularly relevant to this application are:

Policy 1.1.1, 1.1.3 and 1.1.4 state that it is a national priority to preserve the following:

The natural character of the coastal environment by:

- (a) encouraging appropriate use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision use of development in the coastal environment;
- (b) taking into account the potential effects of use or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location; and
- (c) avoiding cumulative adverse effects of use and development in the coastal environment.

The following features, which in themselves or in combination, are essential or important elements of the natural character of the coastal environment:

- (a) andscapes, seascapes and landforms including:
  - (i) significant representative examples of each landform which provide the variety in each region;
  - (ii) visually or scientifically significant geologic features; and
  - (iii) the collective characteristics which give the coastal environment its natural character including wild and scenic areas;

The preservation of the natural character of the coastal environment to protect the integrity, functioning and resilience of the coastal environment in terms of:

- (a) dynamic processes and features arising from the natural movement of sediments, water and air;
- (b) natural movements of biota;
- (c) natural substrate composition;
- (d) natural water quality;
- (e) natural bio diversity, productivity and biotic patterns; and
- (f) intrinsic values of ecosystems.

I have already considered these issues, in general terms, in the assessment of the effects on the environment. But in particular the NZCPS encourages appropriate use or development in areas where natural character has already been compromised, thus encouraging consolidation. Having concluded that the incremental effects of retaining the two outer sites on the natural character of the area (for the duration that the four inner sites are able to remain) are no more than minor, it follows that they constitute appropriate consolidation.

Equally having concluded that the effects on the sustainability on the marine environment are no more than minor it follows that the continued use of the sites until 2025 will not be inconsistent with the policies in the NZCPS which require the protection of the integrity, functioning and resilience of the coastal environment.

#### 4.3.4 Regional Policy Statement

The objectives and policies in Sections 9 and 12 of the Regional Policy Statement that are considered to be most relevant to this application are contained in Appendix C. Those which are considered to be particularly relevant to this application are outlined as follows:

Objective 9.3 aims to ensure that the adverse effects from activities, including structures, physical modification, or occupation, are avoided, remedied or mitigated;

Objective 9.5 aims to preserve the natural character of the coastal environment, including the functioning of natural processes;

Objective 9.7 aims to ensure the maintenance and enhancement of coastal water quality to provide for the needs of marine ecosystems and for sustainable public uses and values;

Policy 9.3 – The Council will provide for activities in the coastal marine area, while avoiding, remedying or mitigating their effects on:

- (i) the natural character of the coastal environment, including natural processes, outstanding natural features and landscapes, and significant habitats of indigenous species;
- (ii) the amenity values of the locality, including heritage values;
- (iii) public access and multiple use, including any degree of occupation (exclusion) sought;
- (iv) the natural qualities of coastal water;
- (v) Maori culture, traditions and taonga;
- (vi) existing and potential uses of the locality;
- (vii) environments or facilities beyond the site, including transport facilities;

and whether these effects can be avoided, remedied, or mitigated.

Policy 9.6 – The Council will preserve the natural character of the coastal environment by protecting:

- (a) natural features and landscapes, such as headlands and cliffs, coastal plains, estuaries, tidal flats, dunes and sand beaches;

It is difficult to remedy or mitigate the adverse visual effects of a marine farm (unless subsurface structures are contemplated), the only mitigating factor is the distance of the outer two farms from the closer residences and the distance of the farm block from other vantage points at Tui Community and the Abel Tasman Coastal Track. Again, it is the existence of the inner four farms which will remain until 2025 which generate the adverse effect (albeit to at a lesser scale). While these farms remain the natural character of the area will be compromised. It is acknowledged that the

adverse effects from noise and lights could be mitigated by limiting the hours of operating and shielding the boat lights.

#### 4.3.5 Proposed TRMP

All the objectives and policies in the aquaculture section of the Plan are listed in Appendix D.

Council's objective is to provide for aquaculture in a manner that maintains, enhances, or protects the natural and physical resources of the coastal environment, including the life-supporting capacity of marine ecosystems and the natural character, landscape, ecological, public access, recreation and amenity values, and the values important to the tangata whenua iwi, while avoiding, remedying or mitigating adverse effects.

Policy 22.1.1 states that Council will enable the AMAs to be used as discrete locations where aquaculture may occur in a way that adequately manages adverse effects on the natural and physical resources of the coastal environment, and on its life-supporting capacity, natural character, landscape, ecological, public access, recreation and amenity values, and the values important to the tangata whenua iwi.

Policy 22.1.2 states that Council will provide for the continuation of aquaculture activities at Wainui Bay, **for the duration of the existing licences and permits at that location.**

Policy 22.1.3 - To prohibit aquaculture outside the locations identified in 22.1.1 and 22.1.2.

Other relevant policies include:

Policy 22.1.4 which states that Council will limit aquaculture activities to scallop spat catching and mussel spat catching, and mussel farming;

Policy 22.1.5 which promotes the efficient utilisation of the AMAs for spat catching and mussel farming;

Policy 22.1.6 which is to maintain public access to coastal space and resources; and,

Policy 22.1.22 which aims to ensure that navigation risks from aquaculture structures are adequately avoided or mitigated.

The Friends of Nelson and Tasman Bay submit that the sites are outside of the AMA's and that Policy 22.1.2 infers that once the existing permits for these two farms expire they will be removed. However, the intent of 22.1.2 has been affected by the change in legislation since the policy was written. At that time, all of the Wainui Bay marine farms had a common expiry date in 2008. The legislation has since overridden that, giving four of the sites an expiry date of 1 January 2025. Those sites can remain until their new expiry date, and this remains consistent with Policy 22.1.2 (although not consistent with its original intent and associated expectations).



Providing for the continued use of the two outer sites for same period as the four inner sites is not considered to be contrary to Council's objective for the management and development of aquaculture in Golden Bay. The continued use of the two outer sites will provide for aquaculture in a manner that will maintain the natural and physical resources of the coastal environment, including the life-supporting capacity of marine ecosystems. The monitoring and modelling work undertaken in preparation of the application and monitoring results from other farms around New Zealand would indicate that the continued use of the sites until 2025 will have no more than a minor effect on the coastal marine environment and on its life-supporting capacity.

The conclusion reached in the assessment of effects is that while the effects on the natural character of the block of marine farms are more than minor, the effects of the two outer farms are proportionally small. It is the presence of the farms per se that has the adverse effects, rather than how large or how many there are (within the constraints provided by the Plan).

Policy 22.1.4 states that Council will limit aquaculture activities to scallop spat catching and mussel spat catching, and mussel farming. It is noted that the site is a deemed AMA for mussel farming which includes mussel spat catching, no other species are permitted.

Policy 22.1.5 aims to promote the efficient utilisation of the AMAs for spat catching and mussel farming. The use of the deemed AMA space with 10 longlines at the maximum length able to be provided for within the boundaries of the site will promote the efficient utilisation of the site for mussel farming.

#### **4.4 Outstanding issues Raised by Submitters**

##### Part III Consent Matters

A submitter has questioned why the applicants have failed to seek consent for all of the Part III restricted activities requiring resource consent.

Part III of the Act contains the duties and restrictions. Section 12 outlines the restrictions on the use of the CMA (see Appendix D), Section 14 outlines the restrictions relating to water (see Appendix E) and Section 15 outlines the restrictions on the discharge of contaminants into the environment (see Appendix F).

To date Council has taken a pragmatic approach to Part III of the Act and has not sought separate coastal permits for every identifiable component of aquaculture activities, such as the disturbance of the seabed or diversion of water associated with the placement and use of structures. Council requires separate applications to be made for stand alone activities which disturb the seabed such as those arising from the excavation of sand or the dredging of navigation channels or where the adverse effects of a given activity are considered to be sufficiently great to warrant a separate coastal permit with specific conditions relating to that activity alone.

The Court has acknowledged that there is a small degree of disturbance inherent in the placing of anchors and weights on the seabed. Rule 25.1.5FF commences with: "the occupation and disturbance .....", so disturbance is one of the elements for which coastal permit is granted to an application under this rule, and needs to be considered under this application. Under Rule 25.1.5FF the required standard

condition (a) prevents any discharge of contaminants, but contains an exception for naturally occurring marine material that is discharged by any organism or from any aquaculture structure which is specifically excluded from being considered a contaminant.

## 5. SUMMARY AND RECOMMENDATION

### 5.1 Recommendation

I recommend that pursuant to section 104B of the RMA, the applications for coastal permits RM071049 and RM071050 to occupy and disturb the CMA by the placement of structures, and the use of those structures, for mussel farming be **approved** subject to the following conditions:

#### RM071049

##### Area and Location

- The total area occupied by the authorised structures shall not exceed 3 hectares and shall be located within the following co-ordinates and as shown on Plan A attached to this consent:

Latitude (World Geodetic System 1984 Degrees Decimal Minutes)	Longitude (World Geodetic System 1984 Degrees Decimal Minutes)
172°55.688'E	40°47.833'S
172°55.755'E	40°47.928'S
172°55.661'E	40°47.966's
172°55.594'E	40°47.871'S

#### RM071050

##### Area and Location

- The total area of the mussel farm shall not exceed 3 hectares and shall be located within the following co-ordinates and as shown on Plan A attached to this consent:

Latitude (World Geodetic System 1984 Degrees Decimal Minutes)	Longitude (World Geodetic System 1984 Degrees Decimal Minutes)
172°55.773'E	40°47.954'S
172°55.840'E	40°47.050'S
172°55.746'E	40°47.088's
172°55.679'E	40°47.993'S

##### Conditions Common to Both Consents

- No more than 10 longlines with a maximum length of 140 metres may be placed within the authorised area.

##### Expiry Date

- The consent shall expire on 1 January 2025.

## Species

4. The activity is limited to the farming (including spat catching) of, green-lipped mussels (*Perna canaliculus*).

## Activity in accordance with Plans

5. The activity shall be undertaken and the structures placed and maintained in accordance with the information supplied with the application received on 1 November 2007 and with Plans B and C attached to this consent. Notwithstanding this, if there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
6. Any minor change to the structures shall be submitted in writing to the Council's Environment & Planning Manager for approval. However, the Environment & Planning Manager retains the discretion to require any change to be applied for as a request for a change of consent condition under Section 127 of the Act.
7. All subsurface lines shall be negatively buoyant.

**Advice Note:** This can be achieved through the use of leaded rope, the weighting of lines or other method available to the Consent Holder.

## Transfer

8. The whole or any part of the interest in the coastal permit for the activity may be transferred to any other party. The transferor remains responsible for compliance with the terms and conditions of the permit until written notice of the transfer is given to the Council. This condition is subject to the requirements of Conditions 37 – 39 having first been fulfilled (new bond required on transfer of the resource consent).

## Monitoring

9. The Consent Holder shall, no later than four months following the decision (by the Council or Court, whichever applies) prepare and submit to the Council's Environment & Planning Manager for approval, a Monitoring Programme that will be used to monitor the effects of the mussel farming activity on the environment.

The Monitoring Programme shall be designed to assess any ongoing changes in sediment characteristics under the marine farming structures (including the rate of accumulation of organic and inorganic material onto the sea floor), changes to the existing benthic organisms beneath the farm (in particular the effect and changes to the density of specified macro-invertebrates), and also to assess any water column depletion effects the marine farm may be having. The Monitoring Programme shall include, but not be limited to, the following:

- (a) identification of monitoring sites and control sites;
- (b) test methodologies and sampling frequencies; and
- (c) quality assurance methodology.

10. The Consent Holder shall commission an independent person (or organisation) to undertake the approved Monitoring Programme required to be prepared in accordance with Condition 9. The person who undertakes the monitoring shall be suitably qualified and experienced in such monitoring. The Consent Holder shall prepare an annual report which outlines the results of the monitoring conducted during the previous calendar year and this report shall include discussion on any trends that may be occurring. A copy of this annual report shall be sent to the Council's Environment & Planning Manager by 1 June each year.
11. The Consent Holder may submit to the Council's Environment & Planning Manager amendments to the monitoring programme required to be prepared in accordance with condition 9 (including procedures, sampling and analytical requirements, and the frequency of monitoring) that are considered appropriate for the remainder of the term of the consent. Any changes to the monitoring programme shall be subject to the written approval of the Council's Environment & Planning Manager.

### **Works and Maintenance Programmes**

12. The Consent Holder shall, no later than four months following the decision (by the Council or Court, whichever applies), prepare and submit to the Council's Environment & Planning Manager for approval, a Management Plan that covers all aspects of the operation and maintenance of the marine farming activity. The Management Plan shall include, but not be limited to, the following:
  - (a) a schedule, including minimum frequencies, of regular inspection, servicing, and maintenance items to be carried out on all structures, ropes, buoys and navigational aids;
  - (b) contingency measures for rectifying unauthorised discharges, including parties (and their contact details) to be contacted in cases where unauthorised discharges occur;
  - (c) procedures that will be followed to ensure that all refuse from the marine farm is collected and transported in a safe manner to a site that is authorised for the disposal of such waste; and
  - (d) measures, including the removal and cleaning of anchor warps and longlines and the cleaning and inversion of floats, that will be implemented to minimise the risk of unwanted organisms (refer Condition 17) which have a pest potential being transferred or released into the coastal marine environment. In addition, the Management Plan shall include procedures that will be followed if unwanted organisms are identified during marine farming operations.
13. The operation and maintenance of the marine farming activity shall be carried out in accordance with the approved Management Plan, required to be prepared in accordance with Condition 12, but also always subject to the conditions of this consent. Any changes to the Management Plan shall be subject to the approval of the Council's Environment & Planning Manager.

14. The marine farm shall be maintained at all times by a suitably qualified person who has proven experience in maintaining such farms. The Consent Holder shall no later than four months following the decision (by the Council or Court, whichever applies) provide to the Council's Environment & Planning Manager, in writing, the name and contact details (mailing address and telephone numbers) of the person who is responsible for the overall maintenance of the marine farm. In the event that this responsibility is transferred to a new person, the Consent Holder shall immediately advise the Council's Co-ordinator, Compliance Monitoring of the name and contact details of this new person.

### **Discharge of Contaminants**

15. The Consent Holder shall not discharge contaminants to the sea. For the purposes of this condition, naturally occurring marine material that is discharged by any organism or from any aquaculture structure is not a contaminant. All refuse from the marine farm shall be collected and either reused or disposed of on land at a facility that is authorised to accept such waste material.
16. Tributyl-tin anti-fouling shall not be used on any structure or equipment and no artificial feed shall be added to the sea.

### **Removal of Navigation Hazards**

17. Where any structure or part of a structure sinks, breaks free or otherwise causes a navigation hazard, steps shall be taken as soon as practicable to recover, secure, and make safe the structure. The Consent Holder, or site manager, whoever is first aware of the matter, shall notify the Harbourmaster of any such incident as soon as practicable on becoming aware of it.
18. The Consent Holder shall remove from the site any structure or material that is superfluous to the activity, including any discarded equipment.

### **Management of Biosecurity Risk Organisms**

19. In the event that any unwanted organism (as defined in the Biosecurity Act 1993) is identified during any part of the operation and maintenance of the marine farm, the Consent Holder shall, collect a sample of the organism and forward it to the Council's Policy Planner (Biosecurity) or equivalent officer who will arrange for confirmation identification. The Consent Holder shall undertake any actions that may be necessary to minimise the spread of any such organism as directed by the Council's Policy Planner (Biosecurity).
20. In addition to the requirements under condition 19, the Consent Holder shall inspect the farm structures at harvest to identify the presence of any unwanted organism. Samples are to be sent to Council's Policy Planner (Biosecurity) or equivalent officer who will arrange for confirmation identification. The Consent Holder shall undertake any actions that may be necessary to minimise the spread of any such organism as directed by the Council's Policy Planner (Biosecurity).

## **Navigation aids**

### **Floats**

21. Orange coloured floats, of the same dimension as the other floats on the longline line, shall be placed at the end of every longline or line of floats; and
  - (a) they must be no more than 50% submerged;
  - (b) they must be maintained in such a condition that the orange colour is readily visible over the surface exposed to the air.
22. There shall be an orange coloured float at the centre of the seaward long line of the mussel farm site, which shall be no more than 50% submerged.

### **RM071049**

#### **Corner Special Marks**

23. The northern corner of the site shall be marked using special marks that have the following characteristics:

Radar reflectors/reflective tapes shall be provided in association with the special marks.

- (a) the light must be yellow and flash in a group five times every 20 seconds;
- (b) the light must be at least 1 metres above water level;
- (c) having an intensity as specified in the technical specifications at the end of this section, so as to be visible at a minimum range of 1 nautical miles.

The character of the special marks shall be yellow F1 (5) 20 sec. The minimum flash length shall be 0.5 sec.

Radar reflectors/reflector tape shall be provided in association with the special marks set at least 60 cm above the waterline shall be at least 50mm in diameter and extend around the circumference of the tube. The tape shall be visible by torchlight at a distance of at least 50 metres in normal conditions.

### **RM071050**

#### **Corner Special Marks**

24. The eastern corner of the site shall be marked using special marks that have the following characteristics:

Radar reflectors/reflective tapes shall be provided in association with the special marks.

- (a) the light must be yellow and flash in a group five times every 20 seconds;

- (b) the light must be at least 1 metres above water level;
- (c) having an intensity as specified in the technical specifications at the end of this section, so as to be visible at a minimum range of 1 nautical miles.

The character of the special marks shall be yellow F1 (5) 20 sec. The minimum flash length shall be 0.5 sec.

Radar reflectors/reflector tape shall be provided in association with the special marks set at least 60 cm above the waterline shall be at least 50 mm in diameter and extend around the circumference of the tube. The tape shall be visible by torchlight at a distance of at least 50 metres in normal conditions.

- 25. All navigation marks and radar reflectors shall be constructed to remain substantially upright and withstand and remain effectively operational in all sea conditions reasonably anticipated at the site.
- 26. All navigation aids shall be maintained in a reliable condition by the Consent Holder.

### **Removal of Structures**

- 27. At the end of the term of the Consent, the Consent Holder shall remove all structures from the site and undertake any works considered necessary by the Council's Environment & Planning Manager for the remediation of adverse effects on the seafloor caused by the operation of the consent. All costs associated with the removal of structures shall be met by the Consent Holder.

### **Bond**

- 28. The Consent Holder shall, within four months following the decision (by the Council or Court, whichever applies) enter into a bond with the Tasman District Council. The bond shall be \$1,050.00 per individual mussel line (annually adjusted in accordance with the movement of the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency). The form of the bond is to be prepared by the Council's Solicitors and the Consent Holder is to pay the Council's costs on preparation and execution of the bond.

### **Purpose of Bond**

The purpose of this bond shall include the following:

- (a) to avoid, remedy or mitigate any adverse effects on the environment (including the costs of longline retrieval, on land disposal of both the structures and any non-harvested marine growth and any remedial works required) in the event of abandonment or bankruptcy by the Consent Holder.
- (b) to help cover costs born by the Council in the event of emergency repairs or rescue of part of the structure on behalf of the Consent Holder in the event of it breaking loose or otherwise causing a hazard to navigation.



## **Term of Bond**

The terms of the bond shall include a provision that the bond is payable to the Council in the event of it being required. The bond shall take the form of a development, bank or insurance bond, guaranteed by a financial institution approved by the Council.

The bond shall have a term sufficient to ensure that the funds are available for the purpose described above, until the final removal of the marine farm, at which time any funds remaining shall be reimbursed to the Consent Holder.

## **Transfer**

The transfer of the whole or any part of the interest in the coastal permit is subject to the transferee providing a bond on the same terms as the existing bond to the satisfaction of the Tasman District Council.

If the consent is transferred in part or in whole to another party or person, the bond or deposit lodged by the transferor shall be retained until any outstanding work at the date of transfer is completed to ensure compliance with the conditions of the consent secured by the bond unless the Council is satisfied adequate provisions have been made to transfer the liability to the new Consent Holder.

In the event of any such transfer of the consent, the Consent Holder shall ensure that the transferee forthwith provides a fresh bond to the Council on the terms required by this Condition.

## **Review**

29. The Council may, in accordance with Section 128 of the RMA, serve notice on the Consent Holder of its intention to review the conditions of this consent. Such notice may be served six months after the date of consent, or at the expiry of any six month period thereafter

The review may be initiated for any one or more of the following purposes:

- (a) to deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following assessment of the results of the monitoring of the consent and/or as a result of the Council's monitoring of the state of the environment in the area;
- (b) to require the adoption of the best practicable option to remove or reduce any adverse effect on the environment;
- (c) to provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent;
- (d) to deal with any inadequacies or inconsistencies the Council considers there to be in the conditions of the consent (including the location co-ordinates);

- (e) to deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason.);
- (f) to provide for compliance with any changes to navigation aids in response to changes to the Maritime Safety Authority guidelines or rules;
- (g) to impose coastal occupation charges for the purpose of promoting the sustainable management of the CMA.

The Consent Holder shall meet all reasonable costs of any such review.

### **Advice Notes**

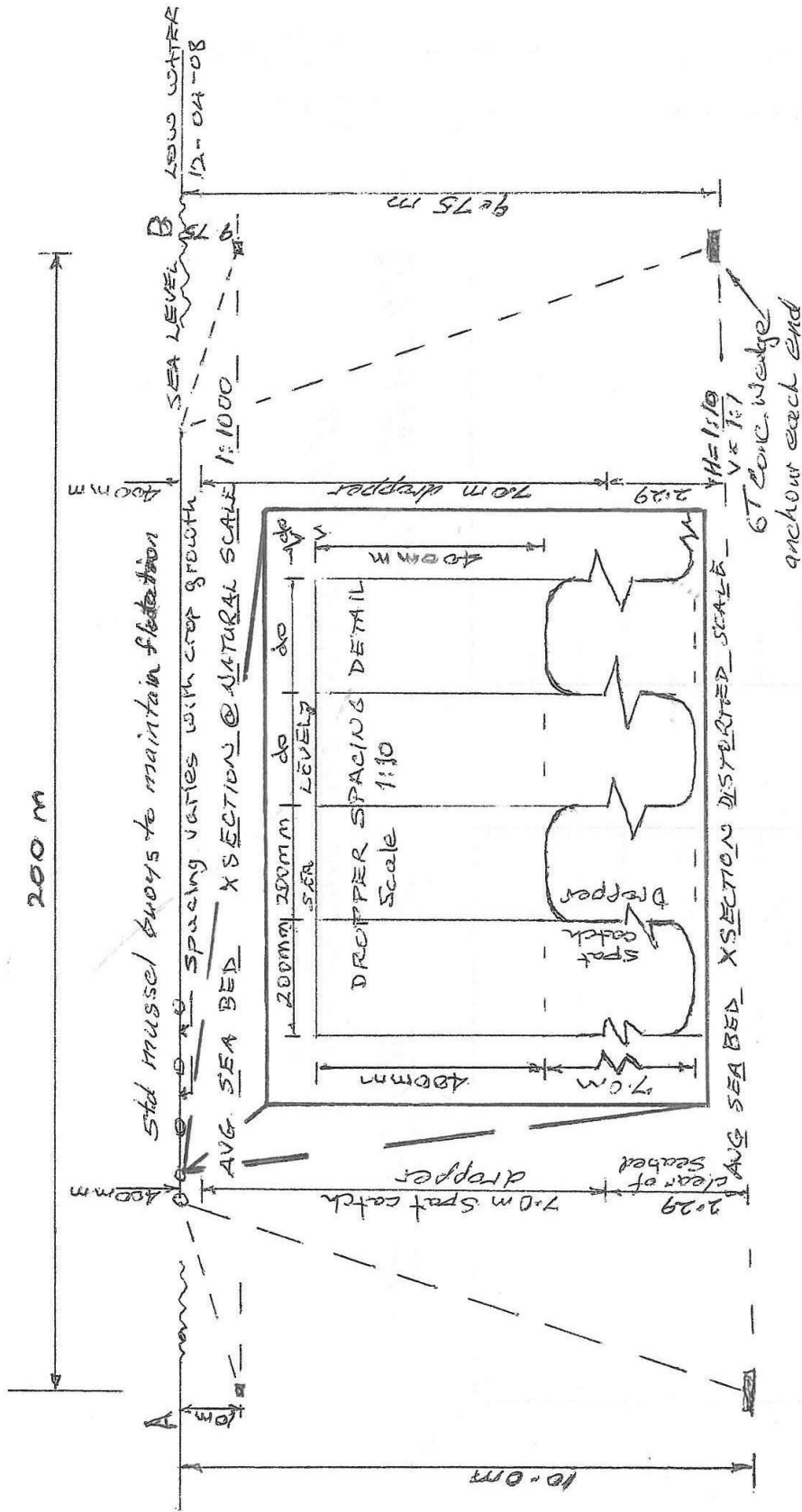
1. The Consent Holder shall pay to the Council an annual fee plus administrative and monitoring charges fixed by the Council from time to time in accordance with the Act, for the purposes authorised by this consent.
2. The obligation to pay the annual fee commences on the date this consent commences. Initial payment is due within 30 days of that date, and subsequent payments are due on 1 July each year. The initial payment will be calculated on a pro-rata basis to the next 1 July.
3. Officers of the Council may also carry out site visits to monitor compliance with resource consent conditions.
4. Plans attached to this consent are (reduced) copies and therefore will not be to scale and may be difficult to read. Originals of the plans referred to are available for viewing at the Richmond office of the Council. Copies of the Council Standards and documents referred to in this consent are available for viewing at the Richmond office of the Council.



Rosalind Squire  
**Consent Planner, Coastal**







Drawn D.R.Smythe May 2008  
Scales as shown SHEET 2

TYPICAL LONGSECTIONS A-B  
WAITAPU FISHING Co LTD  
WAIMUI BAY MARINE FARM SITES

**APPENDIX A**  
**Transitional Regional Coastal Plan**

Nelson  
Bays  
United  
Council

being Section 1, Block III, Taylor Pass Survey District, Blenheim, containing 40.2030 hectares, more or less, and as more particularly shown on S.O. Plan 1165.

Dated at Wellington this 6th day of July 1984.

GEORGE F. GAIR, Minister of Transport.

(M.O.T. 43/5/6)

10

*Queen Elizabeth the Second Arts Council of New Zealand:  
Designation of Administrative Local Authority for Community  
Arts Council*

PURSUANT to section 36 of the Queen Elizabeth the Second Arts Council of New Zealand Act 1974 as subsequently amended under section 3 in 1977, I hereby designate the Akaroa County Council to be the administrative local authority for the Akaroa Community Arts Council.

Dated at Wellington this 5th day of July 1984.

ALLAN HIGGET, Minister for the Arts.

(I.A. Cul. 10/6/8)

*Areas of Golden and Tasman Bays - Cape Soucis to Farewell  
Spit—Determined Not Available for Marine Farm Leasing or  
Licensing (Notice No. 3286; Ag. 9/6/22/7)*

PURSUANT to section 4 of the Marine Farming Act 1971, the Minister of Agriculture and Fisheries has determined that all that area of foreshore, seabed and waters in the area from Cape Soucis to Farewell Spit, Golden and Tasman Bays, comprising the regional planning area of the Nelson Bays United Council, shall not be available for marine farm leasing or licensing under the Act, except those areas identified as available for marine farming under that Council's Marine Farming Study - Nelson Bays, March 1984.

The determination comes into effect from the date of publication of this notice and will remain in effect until such time as it is revoked or varied in accordance with the study.

Copies of the study are lodged at the offices of the Minister of Agriculture and Fisheries, Wellington and Nelson, and the Nelson Bays United Council.

Gazette notice No. 146, page 3726 of 10 December 1981 has been revoked.

Dated at 10th day of July 1984.

DUNCAN MACINTYRE, Minister Fisheries.

9

*Declaration of Easement Agreement Under the Forests Act 1949*

PURSUANT to section 15 (2A) of the Forests Act 1949, the Minister of Forests being satisfied as to the sufficiency of such agreement hereby declares:

1. That an agreement in favour of Ian Beverley Hopper, company director, Lawrence Gerard King, airline pilot, and Olive Stanley King, his wife, all of Pauanui, granting a right of way over the State forest land, described in the Schedule hereto, has been entered into between the said Ian Beverley Hopper, Lawrence Gerard King and Olive Stanley King as grantees and the Minister of Forests acting for and on behalf of Her Majesty the Queen as grantor.
2. That such agreement may be inspected at the office of the

(7/1/1984: 9/1/1984)

*Post Office Bonus Bond*

PURSUANT to the Post Office Act 1959, the result of the weekly

Open prize of \$250

Twelve prizes of \$100



*State Forest Land Set A  
Saltwater Sustained*

PURSUANT to section 15 section 2 of the Forests Act 1949, section 5 of the Forests Act 1949 gives notice that the areas here to are hereby set aside for management and utilisation on a basis of sustained yield management as the "Okarito Sustained Yield Saltwater Sustained Yield".

For the purpose of this notice, the areas defined as the management areas shall supply a volume of timber yield in perpetuity as prescribed in the schedule current at any time.

WESTLAND LAND DISTRICT  
SUSTAINED YIELD

ALL that area of State forest land in the Whataroa Survey District, Okarito Survey District, being on plan 134/4, deposited in the Forest Service at Wellington.

WESTLAND LAND DISTRICT  
SUSTAINED YIELD

ALL that area of State forest land in the Okarito Survey District, Okarito Survey District, being 504 plan 134/5, deposited in the Forest Service at Wellington.

Dated at Oamaru this 1st day of July 1984.

JONATHAN

NOTE: Adjacent to the Okarito Survey District, the width of 200 metres of high water mark as endorsed by the White Paper.

*Cancellation of Vesting of*



**APPENDIX B**

**Relevant Objectives in the New Zealand Coastal Policy Statement**

**(i) Policy 1.1.1:**

It is a national priority to preserve the natural character of the coastal environment by:

- (a) encouraging appropriate subdivision use or development in areas where the natural character has already been compromised and avoiding sprawling or sporadic subdivision, use or development in the coastal environment;
- (b) taking into account the potential effects of subdivision, use or development on the values relating to the natural character of the coastal environment, both within and outside the immediate location;
- (c) avoiding cumulative adverse effects of subdivision, use or development in the coastal environment.

**(iii) Policy 1.1.3:**

It is a national priority to protect the following features, which in themselves or in combination, are essential or important elements of the natural character of the coastal environment:

- (a) landscapes, seascapes and landforms, including:
  - (iii) the collective characteristics which give the coastal environment its natural character including wild and scenic areas.

**(iv) Policy 1.1.4:**

It is a national priority for the preservation of natural character of the coastal environment to protect the integrity, functioning, and resilience of the coastal environment in terms of:

- (a) the dynamic processes and features arising from the natural movement of sediments, water and air;
- (b) natural movement of biota;
- (c) natural substrate composition;
- (d) natural water and air quality;
- (e) natural biodiversity, productivity and biotic patterns; and
- (f) intrinsic values of ecosystems.

**(v) Policy 1.1.5**

It is a national priority to restore and rehabilitate the natural character of the coastal environment where appropriate.

**(vi) Policy 3.1.1:**

Use of the coast by the public should not be allowed to have significant adverse effects on the coastal environment, amenity values, nor on the safety of the public nor on the enjoyment of the coast by the public.

**(vii) Policy 3.2.2:**

Adverse effects of subdivision, use or development in the coastal environment should as far as practicable be avoided. Where complete avoidance is not practicable, the adverse effects should be mitigated and provision made for remedying those effects, to the extent practicable.

**(viii) Policy 3.2.4:**

Provision should be made to ensure that the cumulative effects of activities, collectively, in the coastal environment are not adverse to a significant degree.

**(x) Policy 3.2.8:**

Provision should be made for the protection of the habitats (in the CMA) of species which are important for commercial, recreational, traditional or cultural purposes.

**(xi) Policy 3.3.1:**

Because there is a relative lack of understanding about coastal processes and the effects of activities on coastal processes, a precautionary approach should be adopted towards proposed activities, particularly those whose effects are as yet unknown or little understood. The provisions of the Act which authorise the classification of activities into those that are permitted, controlled, discretionary, non-complying or prohibited allow for that approach.

## APPENDIX C

### Relevant Objectives in the Regional Policy Statement

#### Policy 9.2:

The Council will seek to minimise navigation and safety risks arising from boating and aquaculture activities in a consistent and efficient manner.

#### Policy 9.3:

The Council will provide for activities in the CMA, while avoiding, remedying or mitigating their adverse effect on:

- (i) the natural character of the coastal environment, including natural processes, outstanding natural features and landscapes, and significant habitats of indigenous species;
  - (ii) the amenity values of the locality, including heritage values;
  - (iii) public access and multiple use, including any degree of occupation (exclusion) sought;
  - (iv) the natural qualities of coastal water;
  - (v) Maori culture, traditions and taonga;
  - (vi) existing and potential uses of the locality;
  - (vii) environments or facilities beyond the site, including transport facilities;
- and whether these effects can be avoided, remedied, or mitigated.

#### Policy 9.6:

The Council will preserve the natural character of the coastal environment by protecting:

- (a) natural features and landscapes, such as headlands and cliffs, coastal plains, estuaries, tidal flats, dunes and sand beaches;
  - (b) habitats such as estuaries and wetlands;
  - (c) ecosystems, especially those including rare or endangered species or communities, or migratory species;
  - (d) natural processes, such as spit formation;
  - (e) water and air quality;
- having regard to the:
- (i) rarity or representativeness;
  - (ii) vulnerability or resilience;

- (iii) coherence and intactness;
- (iv) interdependence; and
- (v) scientific, cultural, historic or amenity values;

## **22.1 Issue**

How to provide opportunity to achieve social and economic benefits from aquaculture, while maintaining, enhancing or protecting natural character, landscape, ecological, public access, recreation and amenity values, and the values important to the tangata whenua iwi, while avoiding, remedying or mitigating adverse effects.

## **22.2 Objective**

Aquaculture developed in a manner that maintains, enhances, or protects the natural and physical resources of the coastal environment, including the life-supporting capacity of marine ecosystems and the natural character, landscape, ecological, public access, recreation and amenity values, and the values important to the tangata whenua iwi, while avoiding, remedying or mitigating adverse effects.

## **Policies**

### **AMAs**

- 22.1.1** To enable the AMAs to be used as discrete locations where aquaculture may occur in a way that adequately manages adverse effects on the natural and physical resources of the coastal environment, and on its life-supporting capacity, natural character, landscape, ecological, public access, recreation and amenity values, and the values important to the tangata whenua iwi.
- 22.1.2** To provide for the continuation of aquaculture activities at Wainui Bay, for the duration of the existing licences and permits at that location.
- 22.1.3** To prohibit aquaculture outside the locations identified in 22.1.1 and 22.1.2.
- 22.1.4** To limit aquaculture activities to scallop spat catching and mussel spat catching, and mussel farming.
- 22.1.5** To promote efficient utilisation of the AMAs for spat catching and mussel farming.
- 22.1.6** To maintain public access to coastal space and resources (except where access is managed under other statutes).

### **Tangata Whenua Iwi**

- 22.1.7** To recognise and provide for the relationship of iwi and their customs and traditions with their ancestral lands, waters, sites, waahi tapu, and other taonga.
- 22.1.8** To protect sites of significance to iwi, including waahi tapu and waahi taonga, in providing for aquaculture.
- 22.1.9** To provide for continued customary access to traditional coastal resources (except where access is managed under other statutes).

## **Miscellaneous**

- 22.1.22** To ensure that navigation risks from aquaculture structures are adequately avoided or mitigated.



**Section 16 Duty to avoid unreasonable noise**

(1) Every occupier of land (including any premises and any CMA), and every person carrying out an activity in, on, or under a water body or ... the CMA, shall adopt the best practicable option to ensure that the emission of noise from that land or water does not exceed a reasonable level.

(2) Subsection (1) does not limit the right of any local authority or consent authority to prescribe noise emission standards in plans made, or resource consents granted, for the purposes of any of sections 9, 12, 13, 14, [15, [[15A, and 15B]] ].

**Section 326 Meaning of “excessive noise”**

(1) In this Act, the term excessive noise means any noise that is under human control and of such a nature as to unreasonably interfere with the peace, comfort, and convenience of any person (other than a person in or at the place from which the noise is being emitted), but does not include any noise emitted by any—

(a) Aircraft being operated during, or immediately before or after, flight; or

(b) Vehicle being driven on a road (within the meaning of section 2(1) of the [Land Transport Act 1998]); or

[(c) Train, other than when being tested (when stationary), maintained, loaded, or unloaded.]

[(2) Without limiting subsection (1), excessive noise—

(a) includes noise that exceeds a standard for noise prescribed by [[a national environmental standard]]; and

(b) may include noise emitted by

(i) a musical instrument; or

(ii) an electrical appliance; or

(iii) a machine, however powered; or

(iv) a person or group of persons; or

(v) an explosion or vibration.]

**Section 327 Issue and effect of excessive noise direction**

(1) Any enforcement officer, or any constable acting upon the request of an enforcement officer, who—

(a) Has received a complaint that excessive noise is being emitted from any place; and

(b) Upon investigation of the complaint, is of the opinion that the noise is excessive,—

may direct the occupier of the place from which the sound is being emitted, or any other person who appears to be responsible for causing the excessive noise, to immediately reduce the noise to a reasonable level.

(2) A direction under subsection (1) may be given in writing or orally.

(3) Every direction under subsection (1) shall prohibit the person to whom it is given, and every other person bound by the direction, from causing or contributing to the emission of excessive noise from or within the vicinity of the place at any time during the period of 72 hours or such shorter period as the enforcement officer or constable specifies, commencing at the time the direction is given.

(4)The powers under this section are in addition to the powers under sections 322 to 325 to issue abatement notices relating to unreasonable noise and to seek an enforcement order under section 316.

### **Section 328 Compliance with an excessive noise direction**

(1)Every person who is given a direction under section 327 shall immediately comply with the direction.

(2)Every person who knows or ought to know that a direction under section 327 has been given in respect of a particular place shall comply with that direction as if he or she were the recipient of it, while on or in the vicinity of that place.

(3)If a person against whom an excessive noise direction is made fails to comply immediately with the notice, an enforcement officer (accompanied by a constable), or a constable may enter the place without further notice and—

(a)Seize and remove from the place; or

(b)Render inoperable by the removal of any part from; or

(c)Lock or seal so as to make unusable—

any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.

[(4)Where a direction under section 327 is unable to be given because there is no person occupying the place from which the sound is being emitted or the occupier of the place cannot reasonably be identified, and there is no other person who appears to be responsible for causing the excessive noise, an enforcement officer (accompanied by a constable) or a constable may enter the place without notice and—

(a)Seize and remove from the place; or

(b)Render inoperable by the removal of any part from; or

(c)Lock or seal so as to make unusable—

any instrument, appliance, vehicle, aircraft, train, or machine that is producing or contributing to the excessive noise.]

[(5)Where any enforcement officer or constable enters any place under subsection (4), he or she must leave in that place, in a prominent position,—

(a)A copy of the relevant written excessive noise direction issued under section 327; and

(b)A written notice stating—

(i)The date and time of the entry:

(ii)The name of the person in charge of the entry:

(iii)The actions taken to ensure compliance with the excessive noise direction:

(iv)The address of the office at which inquiries may be made in relation to the entry.]

[(6)Any enforcement officer or constable exercising any power under this section may use such assistance as is reasonably necessary.]

[(7)Any constable may, in exercising any power under this section, use such force as is reasonable in the circumstances.]

### **17 Duty to avoid, remedy, or mitigate adverse effects**

(1) Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of that person, whether or not the activity is in accordance with a rule in a plan, a resource consent,[a designation,] [section 10, section 10A, or section [[20A]] ]

(2) The duty referred to in subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

- (3) Notwithstanding subsection (2), an enforcement order or abatement notice may be made or served under Part 8 to:
- (a) require a person to cease, or prohibit a person from commencing, anything that, in the opinion of the [Environment Court] or an enforcement officer, is or is likely to be noxious, dangerous, offensive, or objectionable to such an extent that it has or is likely to have an adverse effect on the environment; or
  - (b) require a person to do something that, in the opinion of the [Environment Court] or an enforcement officer, is necessary in order to avoid, remedy, or mitigate any actual or likely adverse effect on the environment caused by, or on behalf of, that person.
- [(4) Subsection (3) is subject to section 319(2) (which specifies when an [[Environment Court]] shall not make an enforcement order).]