



Aquaculture Reform

Legal Framework for coastal and marine management workshop 4

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Overview



- Regime prior to 1 January 2005
- 5 Acts amended
- Key reforms
- Issues



Regime prior to 1 January 2005



- § Two “consenting” regimes:
 - RMA occupation of coastal marine area (“cma”)
 - Fisheries Act and Marine Farming Act

- § Space allocation “gold rush”

- § Moritorium introduced
 - 28 November 2001-31 December 2004



Five Acts amended



- Resource Management Amendment Act (No 2) 2004
- Fisheries Amendment Act (No 5) 2004
- Conservation Amendment Act (No3) 2004
- Biosecurity Amendment Act (No 3) 2004
- Te Ture Whenua Maori Amendment Act (No3) 2004

Two new Acts created

- Maori Commercial Claims Settlement Act 2004
- Aquaculture Reform (Repeals and Transitional Provisions) Act 2004



Key reforms



gs Aquaculture confined to special zones called aquaculture marine areas ("AMAs") (ref. s12A RMA)

gs Single process for aquaculture planning and consents:

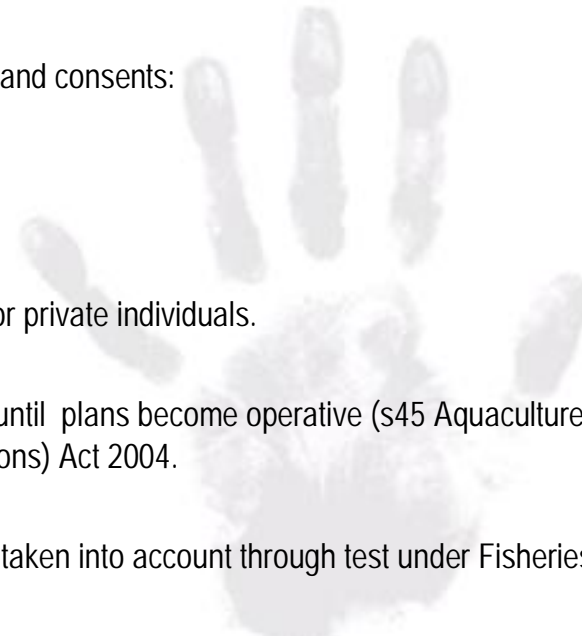
- AMAs in plans
- Authorisations tender
- Right to apply for consent

gs New AMAs can be initiated by councils or private individuals.

gs Existing coastal permits become AMAs until plans become operative (s45 Aquaculture Reform(Repeals and Transitional Provisions) Act 2004.

gs Effects of aquaculture on fishing activity taken into account through test under Fisheries Act 1996 .

gs Allows for provisions in the Maori commercial aquaculture settlement.



Key Reforms



- Use of zoning thought to be more prescriptive and not effects based.
- More strategic approach to aquaculture.
- Processing costs cut down for applicant as only one application process required (for resource consent)
- Existing leases and licenses deemed to be coastal permits with a 20 year duration and potential right of renewal.
- Allocation of space by tender of authorisations or other method. "Fairness" existing applications for areas determined to be AMAs given priority.



Issues



g Transitional provisions

- Interim status of applications pending confirmation of AMA's.
- Activity status and weight of proposed plans and variations in assessment of existing applications.
- See decision of Environment Court in *Freda Pene* par 22 decision describing complexity of transitional provisions as "legislative mine field."

g *"we wonder whether legislative assistance with clause 16B and in particular its relationship to section 88A might be worthwhile"*

g Part two matters

- Importance of tangata whenua issues and weighting to be given to economic autonomy of iwi/hapu when competing against other part two matters such as landscape and amenity values.
- Changing paradigm over aquaculture? Is the sea a 'garden' available for harvesting of aquaculture or does it merit protection/preservation,
- Focus on landscape/visual impacts. Does this give adequate recognition to intrinsic values.
- Amenity effects is an issue particularly where aquaculture takes place in close proximity to recreational areas.
- Impact on moorings/boating safety.
- Natural character, public access, ecologic values, cumulative effects.



Issues



Adaptive Management

- Absence of scientific certainty as to potential effects has been managed by consent conditions based on adaptive management or staging of aquaculture farm development. Are these sufficient? Can authorities require the farm to be removed?
- High cost of monitoring and reporting to marine farmer.

Local Government Act

- To what extent do the LGA requirements apply to a tendering process for authorisations?

