

Coastal permit NN990367 -Tasman Bay Ring Road Spat Catching Ltd

The following document is the resource consent for the marine farming permit application being assessed by the Ministry of Agriculture and Forestry (MAF) under s67Q of the Fisheries Act 1983 (MAF ref: C18-1159).

Subzones (f), (g) and (h) form the area of application.

RESOURCE CONSENT DECISION

Resource consent number: NN990367

Pursuant to Sections 104A and B of the Resource Management Act 1991 (“the Act”), the Tasman District Council (“the Council”) hereby grants resource consent to:

Tasman Bay Ring Road Spat Catching Ltd

(hereinafter referred to as “the Consent Holder”)

Activity authorised by this consent:

To occupy and disturb the coastal marine area by placing a maximum of 212 longlines up to 220 metres in length between 1 November and 30 April in any year for the purposes of catching green-lipped mussel spat.

This consent is issued subject to the following conditions:

CONDITIONS

Season, Location and Area

- 1 The consent area may be occupied by the authorised structures only in the period between 1 November and 30 April in any year.
- 2 In any year spat catching shall be limited to:
 - (a) one of the sub zones (e) to (g) in AMA 3 Te Kumara as shown on Plan A attached to this consent; and
 - (b) ~~sub zone (k) or one half of sub zone (h) in AMA 3 Te Kumara until such time as mussel farming is authorised for sub zone (k) when the spat catching authorised by this consent shall revert to using one-third of sub zone (h) as shown on Plan A attached to this consent.~~

The abovementioned sub zones are defined by the following co-ordinates and areas:

Sub Zone	Lat WGS 84 DDM	Lat WGS 84 DDM	Area (Ha)
e	-41 4.10330	173 5.50553	268.64
	-41 4.37931	173 4.89191	
	-41 5.60498	173 5.91467	
	-41 5.31809	173 6.52125	
f	-41 7.18592	173 8.04609	277.12
	-41 7.61325	173 7.59678	
	-41 8.52445	173 9.15657	
	-41 8.09705	173 9.60581	
g	-41 8.09705	173 9.60581	272.92
	-41 8.52445	173 9.15657	
	-41 9.44625	173 10.6599	
	-41 9.01872	173 11.1091	

Sub Zone	Lat WGS 84 DDM	Lat WGS 84 DDM	Area (Ha)
k	-41 3.31833	173 7.21034	269.32
	-41 3.60529	173 6.60412	
	-41 4.83611	173 7.62722	
	-41 4.54907	173 8.23357	
h	-41 6.04971	173 9.32948	546.02
	-41 6.46634	173 8.86613	
	-41 7.36107	173 10.4257	
	-41 8.29879	173 11.9218	
	-41 7.88738	173 12.3779	
	-41 6.94434	173 10.8890	

Expiry Date

- 3 The resource consent shall expire on 12 September 2021.

Number of Lines

- 4 No more than 212 longlines with a maximum length of 220 metres may be placed within the consent area specified in Condition 2 in any year in general accordance with Plan B attached to this consent and dated 14 September 2021.

Advice Note:

The orientation of the lines may vary from year to year.

Layout of Structures

- 5 The structures shall be placed and maintained in general accordance with the information supplied with the application and with the structure plan C attached to this consent and dated 14 September 2021. Notwithstanding this, if there are any inconsistencies between this information and the conditions of consent, the conditions of consent shall prevail.
- 6 No structure (except for navigation marks and their associated warps and anchors) such as longlines, anchors or buoys shall be placed within 50 metres of the boundary of the consent area.
- 7 Structures shall be placed so that they progressively occupy the sub zone in one contiguous block.
- 8 One week prior to the commencement of each season the Environment & Planning Manager shall be advised in writing which site will be used.

Species

- 9 The activity shall be limited to the deployment of structures that primarily target the catching of green-lipped mussel spat (*Perna canaliculus*). Notwithstanding this, scallop spat caught as a by-catch may be harvested.

Fisheries Act Authorisation

- 10 This consent shall not be exercised until the Council has been provided with a copy of any Fisheries Act authorisation required for the activity.

Transfer

- 11 The interest in the consent for the activity may be transferred to any other person. The transferrer remains responsible for compliance with the terms and conditions of the consent until written notice of the transfer is given to the Council.

Monitoring

- 12 The Consent Holder shall conduct monitoring programmes and undertake management responses in accordance with, and as set out in the Environmental Adaptive Management Plan (EAMP) contained in Attachment 1 and with any approved changes to the EAMP.
- 13 The Consent Holder may at any time on an as need be basis, submit to the Council for approval, amendments to the EAMP that may incorporate changes to the monitoring programme (including procedures, sampling and analytical requirements, and the frequency of monitoring) and trigger levels for management action, that are considered appropriate for the remainder of the term of the consent. Any changes to the EAMP shall be subject to the prior written approval of the Council's Environment & Planning Manager.

Advice Note:

As part of its approval process for any request to amend the EAMP, the Council will liaise with Challenger Scallop Enhancement Co in order to determine whether to approve the requested changes to the Plan. It should be noted, however, that the Council retains the right to either approve or decline the suggested changes put forward by the Consent Holder.

Works and Maintenance Programmes

- 14 The Consent Holder shall, no later than 1 November each year, submit to the Council's Environment & Planning Manager for approval, a management plan that covers 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; and
 - (c) procedures that will be followed to ensure that all refuse from the spat catching activity is collected and transported in a safe manner to a site that is authorised for the disposal of such waste.
- 15 The operation and maintenance of the spat catching activity shall be carried out in accordance with the approved management plan, required to be prepared in accordance with Condition 14. Any changes to the management plan shall be subject to the approval of the Council's Environment & Planning Manager.
- 16 The spat catching structures shall be maintained at all times by a suitably qualified person who has proven experience in maintaining such structures. The Consent Holder shall, prior to 1 November 2006, 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 structures. In the event that this responsibility is transferred to a new person, the Consent Holder shall immediately advise the Council's Environment & Planning Manager of the name and contact details of this new person.

Discharge of Contaminants

- 17 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 activity shall be collected and either reused or disposed of on land at a facility that is authorised to accept such waste material.

- 18 Tributyl-tin antifouling shall not be used on any structure or equipment and no artificial feed shall be added to the sea.

Management of Biosecurity Risk Organisms

- 19 (i) 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 spat catching structures, the Consent Holder shall, if possible, collect a sample of the organism and forward the sample 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) or by Biosecurity New Zealand.
- (ii) In addition to (i), the Consent Holder shall inspect the farm structures at harvest to identify the presence of any unwanted organism. Samples, where obtainable, shall be sent to Council's Policy Planner (Biosecurity).

Notification of Placement of Navigation Structures and Removal of Navigation Hazards

- 20 The Consent Holder shall notify the Duty Officer at Maritime New Zealand immediately prior to the placement of structures; and within 24 hours of the placement of structures notify the Nautical Advisor at Land Information New Zealand and the Council Harbourmaster.
- 21 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.
- 22 The Consent Holder shall remove from the site any structure or material that is superfluous to the activity, including any discarded equipment.

Aids to Navigation

- 23 (i) Perimeter corners – the four corners of the occupied area within the consent area shall be identified by cardinal marks and lights in accordance with Section 2.9, cardinal marks of the system of buoyage and beaconage for New Zealand (Marine Transport Division, Ministry of Transport), or as agreed by the Harbourmaster.

The lights on the cardinal mark shall meet the following standards:

- (a) colour – white;
- (b) visibility – 4 nautical miles;
- (c) height above sea level – 3 metres;
- (d) flash VQF as per type of cardinal mark (ie, N, S, E, W).

The cardinal marks shall be fitted with radar reflectors (corner octagonal), which shall be located at a minimum height of 2.5 metres above sea level and shall have a minimum radar cross-section of 33 square metres. Radar reflectors may be located separately from the cardinal markers, or as agreed with the Harbourmaster.

- (ii) Perimeter boundary – between the cardinal marks the perimeter of the consent area shall be lit with special lights at a maximum of 0.5 nautical mile intervals and meet the following standards:
 - (a) colour – yellow;
 - (b) visibility – nominal 2 nautical miles;
 - (c) height above sea level – minimum 2 metres;
 - (d) flash (five) times every 20 seconds.
- (iii) All navigation aids shall be maintained in a reliable operating condition by the Consent Holder at all times.
- (iv) All navigation marks shall be substantially constructed and suitable for the sea conditions that may be encountered on the site they will be used at. The design and construction of navigation marks shall be such that they remain substantially upright, and resist pitching and rolling in the sea conditions typically encountered at the site.

Review

24 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent. Such notice may be served at any time during the month of September each year.

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 deal with any inadequacies or inconsistencies the Council considers there to be in the conditions of the consent (including the location co-ordinates);
- (d) to deal with any material inaccuracies that may in future be found in the information made available with the application which materially affected the decision (notice may be served at any time for this reason.);
- (e) to provide for compliance with any changes to navigation aids in response to changes to the Maritime Safety Authority guidelines or rules, or to achieve consistency with other consents;
- (f) to impose coastal occupation charges for the purpose of promoting the sustainable management of the coastal marine area; or
- (g) to introduce a bond or other appropriate instrument for the purpose of avoiding, remedying or mitigating any adverse effects on the environment (including the costs of longline retrieval, of 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 and/or to help cover costs borne 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.

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

ADVICE NOTES

Changes to Consent

- 1 Any change to the conditions of this consent (including the attached plans and maps) shall be subject to the approval of the Environment & Planning Manager, or shall be subject to a Section 127 change of consent conditions.

Annual Fee

- 2 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.
- 3 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.

REASONS FOR THE DECISION

Background

The Ringroad Consortium consents were originally issued in 1994 (under two parent consents) to the New Zealand Fishing Industry Board in Tasman Bay (NN940156) and Golden Bay (NN940157). The purpose of these consents was to mitigate the potentially significant adverse environmental effects arising from the haphazard granting of coastal permits for mussel spat catching activities throughout Tasman Bay and Golden Bay. This resulted in a suite of resource consents for spat catching being granted in triplicate to all parties involved in catching spat in these areas. The permits were granted on a short-term basis, expiring on 30 April 1996. This was to allow further data collection and input into the Tasman Coastal Plan development. At the time of consent renewals in 1996, the coastal plan had not been progressed sufficiently to determine whether spat catching activities in the Ringroad area would be an option in the longer term. Consequently, the Ringroad permits were renewed for a further short term, to expire in October 2000. The parent consents issued to the New Zealand Fishing Industry Board were surrendered in March 1996.

The Ringroad Consortium lodged new applications (NN990366 and NN990367) on behalf of the various Ringroad consent holders on 5 August 1999. These coastal consent applications sought to occupy the same area and locations occupied by the various Ringroad parties as issued in the previous coastal consents for both Tasman Bay and Golden Bay. Processing of these and other aquaculture applications had been deferred until the Environment Court had released its decisions on the references to the rules that control aquaculture in the coastal marine area in the Tasman Resource Management Plan.

The coastal section of the Tasman Resource Management Plan was notified in 1996. A number of references were lodged with respect to the aquaculture provisions; all these have now been resolved. Section 19 of the Resource Management Act states that a rule in a proposed plan is to be treated as if it is operative if the time for making submissions or lodging appeals on the rule has expired and all submissions in opposition and appeals have been determined. The Minister of Conservation has declared interim Aquaculture Management Areas (AMAs) and Council has also requested an aquaculture decision for the interim AMAs.

These applications were received no later than six months before the expiry of the original permits. As such, pursuant to Section 124(a) of the Resource Management Act (1991), the Ringroad Consortium consent holders have continued to operate under their original coastal consents until these applications have been determined.

Proposed Tasman Resource Management Plan (“PTRMP”) Rules Affected:

Rule 25.1.5 of the Proposed Tasman Resource Management Plan provides for the occupation and disturbance of coastal marine sites for mussel spat catching within sub zones (e) to (h) of AMA 3 to be considered as a controlled activity. This provision was among others in the Aquaculture Plan Amendments issued by the Environment Court and adopted by Council on 17 February 2005. Occupation and disturbance of sub zone (k) in AMA 3 “Te Kumara” is a controlled activity by virtue of Section 88A of the Resource Management Act 1991.

Note:

Section 88A of the Act states that if an application for a resource consent has been made under Section 88 and the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made under Section 88 is altered after the application was first lodged as a result of a proposed plan being notified, or a decision being made under Clause 10(3) of the First Schedule then the application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.

This application was lodged prior to the rules in the PTRMP becoming operative and as such is required to be considered as a controlled activity pursuant to Section 88 of the Act.

Principal Issues (Actual and Potential Effects on the Environment)

The activity is controlled, as such Council must approve the application and may include conditions on the following matters that Council has limited its control to: the ecological effects, including effects on the benthic environment and water column effects; the type, scale, location, density and integrity of structures including their effect on navigation safety, visual amenity and public access; the management of biosecurity risk organisms; the duration of the consent; financial contributions, bonds, covenants and administrative charges and the timing and purpose of review of any or all of the conditions.

In making this decision the Council considers that the adverse effects of the activity on the environment will be no more than minor. Conditions of the consent require the monitoring of the ecological effects via an Environmental Adaptive Management Plan.

Conditions have been imposed with respect to the placement of structures in order to preserve public access to the occupied area. In order to enhance navigation safety and public access the occupied area within the consented area is required to be identified with navigation aids, rather than the consented area. The type, size and colour of the navigation aids have been prescribed in accordance with the Maritime New Zealand (Aquaculture Management Areas and Marine Farms) guidelines. In making this decision Council has tried to minimise the adverse effects on the amenity of the coastal environment area, whilst ensuring that they function effectively as aids to navigation.

A condition has been imposed with respect to the collection and identification of biosecurity risk organisms and formulation of a management response in association with Central Government (Biosecurity New Zealand).

A review condition provides for the introduction of a bond at some future date if this is considered appropriate in order 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 and to help cover costs borne 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.

Relevant Statutory Provisions

The purpose and principles (Sections 5, 6, 7 and 8) of the Resource Management Act 1991 and Sections 104 and 108A (which concern the consideration of applications and conditions of consent) were considered when

assessing the activity authorised by this consent. The activity is considered to be consistent with the Purpose and Principles of the Act.

The objectives and policies in the New Zealand Coastal Policy Statement, Tasman Regional Policy Statement and the Proposed Tasman Resource Management Plan were also considered. The objectives and policies contained within the New Zealand Coastal Policy Statement are mirrored in both the Tasman Regional Policy Statement and Tasman Resource Management Plan. The activity is considered to be consistent with the following objectives and policies in the Plan.

Objective 22.2

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, recreational and amenity values, and the values important to the tangata whenua iwi, while avoiding, remedying or mitigating adverse effects.

Policy 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, recreational and amenity values, and the values important to the tangata whenua iwi.

Policy 22.1.4

To limit aquaculture activities to scallop spat catching and mussel spat catching, and mussel farming.

Policy 22.1.5

To promote efficient utilisation of the AMAs for spat catching and mussel farming.

Policy 22.1.6

To maintain public access to coastal space and resources (except where access is managed under other statutes).

Policy 22.1.7

To recognise and provide for the relationship of iwi and their customs and traditions with their ancestral lands, waters, sites, wahi tapu, and other taonga.

Policy 22.1.18

To provide locations where spat catching can be carried out either seasonally or permanently.

Policy 22.1.19

To maintain a distinct season free from any form of aquaculture structures or occupation, in specific spat catching sub zones.

Policy 22.1.20

Where appropriate, to limit the space used for spat catching in any spat catching season, in order to mitigate adverse effects on the natural and physical resources of the coastal environment.

Policy 22.1.22

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

Notification and Affected Parties

The adverse environmental effects of the activity are considered to be no more than minor and the written approval of all parties deemed by the Council to be adversely affected have been provided. The Council's Co-ordinator Resource Consents has, under delegated authority, decided that the provisions of Section 94 of the Act have been met and therefore the application has been processed without notification.

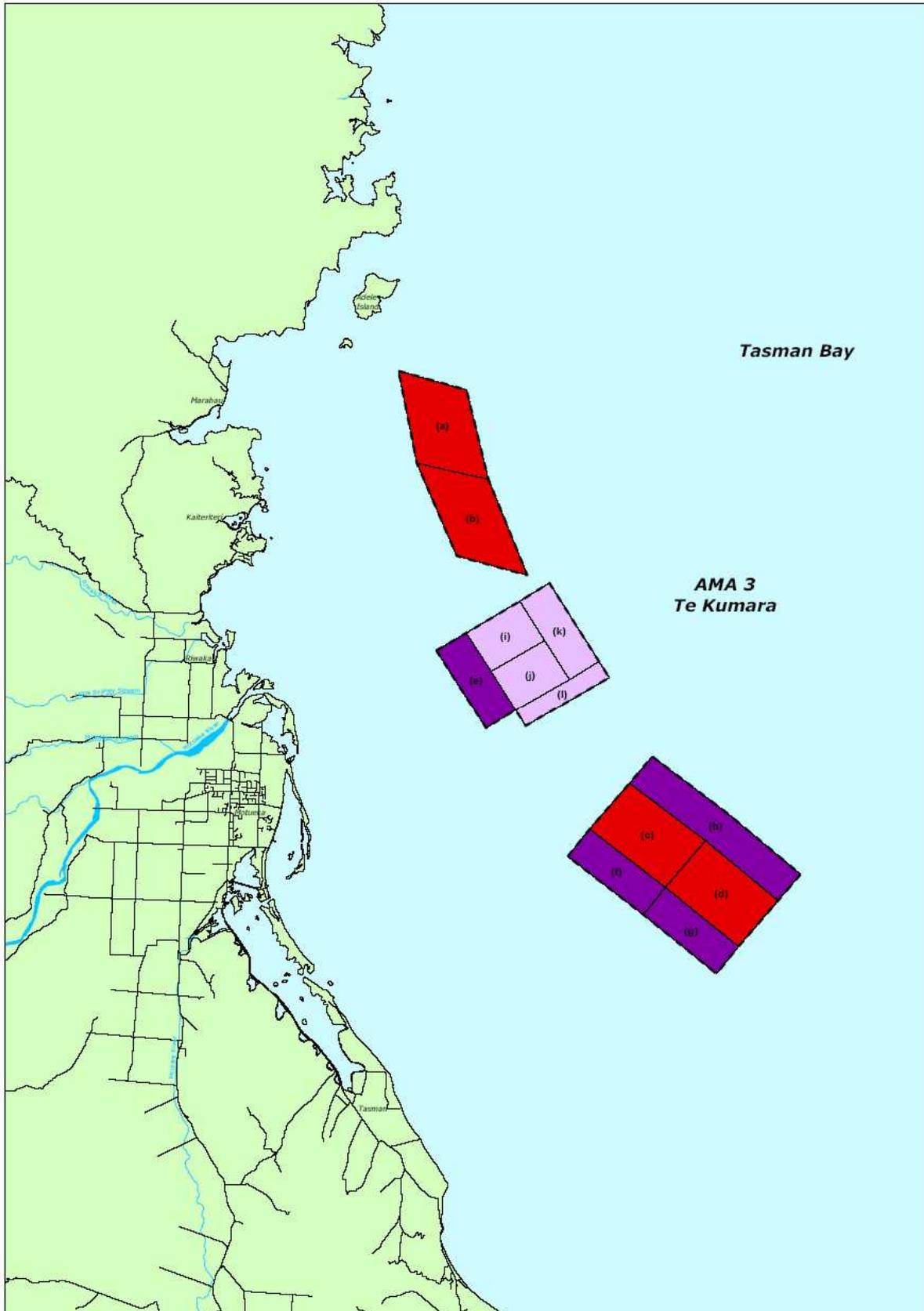
Duration of the Consent

A period of 20 years was requested by the applicant. The consent has been granted for a period of 15 years. The period was reduced because Council is required to take a precautionary approach to the continued development of the industry until the long-term effects on both the environment and the wider community are fully understood and accepted.

This consent is granted on **14 September 2006** under delegated authority from the Tasman District Council by:

Rosalind Squire
Consent Planner, Coastal

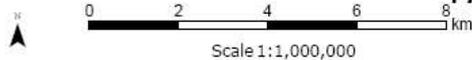
Plan A - AMAs and their subzones



TDC TASMAN RESOURCE MANAGEMENT PLAN
20 August 2005

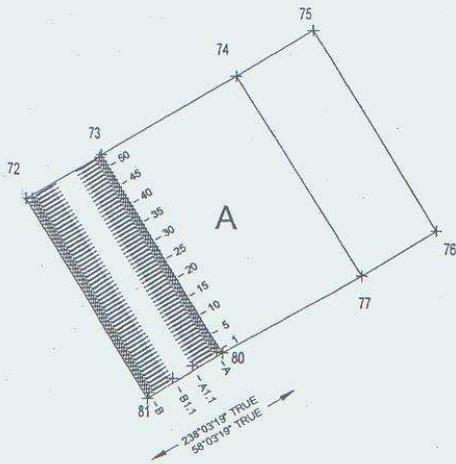
SPAT CATCHING AND MARINE FARMING SITES - TASMAN BAY

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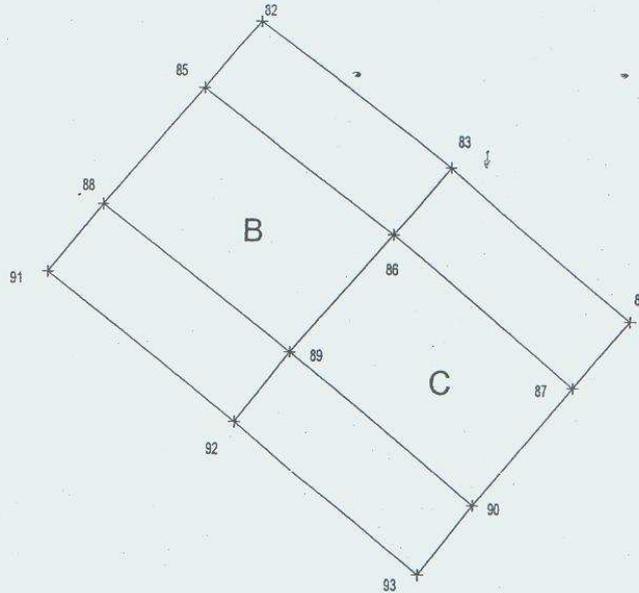


Map 182

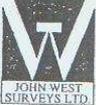
Plan B - Placement of Lines



SEE ENLARGEMENT SHEET 3



Plan B

	Scales:	1 : 50000 @ A3	By	Date
	Sheet:	2 of 3	Drawn	B T Harford
	Project No:	JWS725	Checked	C R Burnett
			Cadd Ref:	Jws725 Tasman2.vcd
				May 2004

**Seasonal Rotational Spat Catching Sites
Tasman Bay Ringroad**

