

# NORTHLAND

## leading the way

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Late last year, the Northland Regional Council and the New Zealand Oyster Industry Association agreed a Memorandum of Understanding which sets the framework for a scheme that will give oyster farmers an alternative to having to provide substantial bonds to the council. Oceanlaw New Zealand was pleased to advise the association on this initiative.

When major changes were made to aquaculture legislation in 2004 which included provision for existing marine farm leases and licences to be transitioned into the new regime, councils were given a period in which they were entitled to review the conditions on leases and licences and impose new ones, if necessary. The Northland Regional Council elected to introduce conditions requiring all oyster farms to post substantial bonds which would allow it

in the amount of \$6.95 per horizontal lineal metre of racks or \$9,000 per developed hectare.

While some other councils also either require bonds to be posted by marine farmers, or at least have Coastal Plan rules that allow them to do so, the Northland bond was seen by farmers in that region as especially onerous, especially in light of the oyster herpes virus that has decimated the industry over the last few years. In order to provide a bank bond – essentially a guarantee by a bank that it will pay the relevant sum from the account of the person in question if that person fails to do so – it is necessary to have, and keep, that amount of money in the bank at all times. Banks also charge a fee for providing the service, of course.

The Oyster Industry Association estimated that provision of the bonds sought by the council would have resulted in approximately \$3.5 million of the working capital of the industry being tied up, and that the commercial viability of some operations would be at risk as a result. It is worth noting also, that the rate of abandonment of farms in the region currently runs at something like 0.5 percent. The industry therefore worked, over several years, to develop an alternative scheme that would meet the council's objectives but avoid these negative impacts on the industry.

The essence of the scheme is a remediation fund, financed by levies paid by participating farmers, which stands, in place of a bank bond, as the guarantee that farmers will meet their obligations. In addition, farmers will also be required to provide securities over their farm or

other assets that the scheme can call on in the event that they default on their obligations. In the worst case scenario, these securities could be called on to allow a good farmer to take over the operations of one who is in default, before the farm in question falls into total disrepair.

Work is continuing on implementing the scheme and challenges will include setting participants' levies at levels that will allow the remediation fund to be adequately capitalised within a reasonable period, while providing incentives to those farmers who remain fully compliant with all of their resource consent conditions. It is hoped that good communication with the Council will allow those responsible for operating the scheme to receive early warning of looming compliance issues so that they can assist farmers to address them before they become overwhelming.

The Northland Aquaculture Development Group, comprising industry, iwi and science providers, and supported by the regional's economic development agency, Northland Inc, has set a goal of seeing aquaculture in Northland developed into a \$300 million industry employing more than 700 extra workers in less than two decades. The goal is an ambitious one, and building on the good will and co-operation between industry and local authorities that has been shown in the development of the oyster farm remediation scheme will be essential to its realisation.

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to recover clean-up costs from permit holders in respect of any farms that were to fall into disrepair or disuse.

The council's move was driven, at least in part, by the sad story of abandonment of farms in Waikare Inlet after they were forced to close in 2001 as a result of water pollution issues. After objections from oyster farmers that that situation was highly unlikely to be repeated, and concerns of that level at which council initially proposed to set the bonds, the conditions finally adopted required that a bank bond or other surety be posted

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