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Report to the Environment Committee
from Bianca Sullivan, Policy Advisor

Charging for Occupation of the Coastal Marine Area: An U pdate

1. Purpose

To inform the Committee about work relating to a coastal occupation charging regime under s 64A of the Resource Management Act 1991.

2. Background

Prior to the Resource Management Amendment Act 1997, the Resource Management Act 1991 (RMA) provided for rentals to be charged on the occupation of coastal space in accordance with Resource Management (Transitional Fees, Rents and Royalties) Regulations. This applied to any coastal permit allowing occupation of Crown land in the coastal marine area. Regional councils were responsible for collecting the rental money on behalf of the Crown.

This scheme proved unpopular with regional councils, with most expressing their dissatisfaction by ignoring the statutory obligation to collect coastal rentals. One objection to the regime was that revenue collected would go into a Crown fund, rather than being used for coastal management in the Region where it was collected. Another objection centred on the perception that the costs of compliance would exceed the amount of money returned.

The Ministry for the Environment commissioned a review of coastal rentals in 1994. The Council made a submission on the review document supporting charges for the occupation of coastal space but emphasising the inadequacies of the then current regime. The resulting provisions in the Amendment Act removed the mandatory requirement for regional councils to collect coastal rentals on behalf of the Crown. Regional councils are instead given the option, to be implemented through their regional coastal plans, to collect money on

coastal occupations through a charging regime, or to not charge for coastal occupation at all.

The key provisions of the RMA which relate to coastal occupation charges are included as Attachment 1 to this report.

3. Progress and Implications for the Wellington Regional Council

Issues associated with coastal occupation charging were discussed recently at a meeting hosted by the Council for coastal planners from regional councils and unitary authorities.

Much of the current debate revolves around whether port companies can be charged under s64A or whether the rights to occupy coastal space were purchased from the Crown with Harbour Board assets and are now included in s384A. Section 384A allows port companies to obtain coastal permits, in consultation with a regional council, to occupy coastal space adjacent to any port related commercial undertaking until 30 September 2026. The question of whether this occupation can be charged for has been the subject of conflicting legal opinions.

Regardless of whether port companies can be charged, a charging regime may be appropriate as users are gaining private benefit from a public resource, and the public should be compensated if they are excluded from public space.

Currently two councils have notified variations to their regional coastal plans including sections relating to coastal occupation charging. Canterbury Regional Council does not intend to charge, whilst Southland Regional Council, the only council to have collected coastal rentals on behalf of the Crown, intend to charge for occupation of space.

This Council will have to decide whether to adopt a coastal occupation charging regime. Under s401B, a statement about whether a coastal occupation charge is to be adopted or not must be included in the first change to a regional coastal plan after 30 June 1999. The Council's Regional Coastal Plan will need to be changed in response to other issues. Therefore, it is important that we start to consider the arguments for and against a coastal occupation charging regime. Officers will be continuing work on coastal occupation charging with a view to conducting a workshop for councillors later this year.

4. **Recommendation**

That the report be received and the contents noted.

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Attachment: 1