

Aquaculture reforms

The Ministries for Primary Industries and the Environment are jointly consulting on a proposed National Environmental Standard for Marine Aquaculture (NES). Submissions on the proposal are due Tuesday 8 August 2017. A number of consultation meetings are occurring around the country between now and the close of submissions to further gauge industry and community feedback. A full timetable of the consultation meeting schedule can be found here: [Proposed national environmental standard for marine aquaculture](#).

In summary, the proposed NES recommends that coastal permit renewal processes be standardised and processed non-notified. However, there are also more onerous requirements proposed, such as having to prepare, implement, and keep up to date biosecurity management plans to manage biosecurity risks for existing and new marine farms.

The proposed NES does not address industry growth outside of existing consented marine farms, or allocation of new space for aquaculture. These are identified as government priorities, but will be addressed separately.

Government's intention is that the NES be in place in 2018, at which point it will bind regional councils, requiring councils to implement the NES provisions as

though they are rules in the relevant regional coastal plans.

For the NES to be workable, certain, effective and appropriate, meaningful comment from the industry users is needed.

Key implications for the marine aquaculture industry

The proposed NES responds to the fact that many marine farm coastal permits are soon due for expiry (and therefore potential renewal). Many of the coastal permits for existing marine farms were originally granted under legislation that preceded the Resource Management Act 1991. These permits will expire either before or during 2025.

The four key elements of the proposal are that:

- most replacement consents for existing marine farms and the change of species on existing marine farms to be a **restricted discretionary activity**¹;
- most applications for replacement consents will not be publicly or limited notified (other than to the holders of Statutory Acknowledgements);
- small scale boundary realignments of existing marine farm of less than 10ha are provided for (particularly where realignments can be used to reduce adverse effects as part of the replacement process). Several conditions apply, including that the realigned area must not be in an area the plan identifies as outstanding, and that species farmed is not to change; and
- all marine farms (existing and new) must prepare, implement and keep up to date biosecurity management plans to manage biosecurity risks from

¹ **Restricted discretionary activity** – a resource consent is required for the activity and an application may be declined by the consent authority but only in relation to the matters which discretion is restricted to. If the consent is granted, conditions may be imposed but consideration is restricted to the stated matters over which discretion is restricted.

Aquaculture reforms (Continued)

farm activities. Existing farms would be required to implement the biosecurity management plan by 2025.

The application process for replacing an expiring permit is currently different across the country. This process might involve limited notification to parties such as affected iwi or environmental groups, or full public notification. Coastal permits for existing marine farms may specify that only a single species can be farmed, or may list multiple species. If a species is not listed on a coastal permit, then a marine farmer either needs to apply for additional or different species when the existing coastal permit expires and a replacement permit is being sought, or apply to change the conditions of an existing coastal permit to add or change species.

Under the proposed NES, for a replacement consent to comply, the farm must:

- be located in the same location as authorised by the current coastal permit for occupation;
- be occupying the same or less area than authorised by the current coastal permit;
- be using structures and anchoring systems that are materially the same as the current ones; and
- be farming the same species as those authorised by the current coastal permits.

The replacement consent provisions will not apply to existing farms in Tasman Aquaculture Management Areas and Waikato Wilsons Bay.

If the marine farm cannot meet these requirements then:

- if no current permit is held, or the extent of area occupied is proposed to increase, the application is considered to be for new space and is not covered by the NES;
- consent can be applied for a change of species under other provisions of the NES, which would allow structures and anchoring systems to change;

- consents can be applied for realignment; or
- the application is considered under the regional planning framework of the relevant region, rather than being covered in the NES.

The proposed NES does not specify how the development of new space for aquaculture activities will be assessed. This includes any farms where an increase in the area of the marine farm is sought and any existing farms which do not meet the above requirements.

At this stage, the (draft) matters of reserved discretion for restricted discretionary activities include timing of occupation, continued reasonable public access and navigational safety, adverse effects on seabed features such as reefs and biogenic habitats, marine mammal and seabird interactions with marine farms, effects on biosecurity and effects from noise, rubbish, and debris. In addition, marine farms within an area of outstanding natural character or outstanding natural feature or landscape² would have an additional matter of discretion requiring councils to consider the effects of activities associated with the existing marine farm on the values and characteristics that make an area, feature or landscape outstanding³.

Under the proposed NES requirements, an existing marine farm would need to prepare and implement an approved biosecurity management plan by 31 January 2025. Any marine farm seeking new permits or replacement permits would need a management plan at the time of application. A plan template has been provided in the NES consultation documents which provides for matters such as the requirement to implement a veterinary health management plan, restrictions on the supply of water and stock to / from

² In accordance with policies 13 and 15 of the New Zealand Coastal Policy Statement 2010, or section 6(b) of the RMA as identified in in both proposed and operative regional planning documents.

³ This would not include those marine farms that either share a boundary with an outstanding area or impinge on that area to a very small extent (up to 1% of the consented area) due to margins of error in mapping used for the marine farms and the outstanding areas.

Aquaculture reforms (Continued)

farms, feed testing, training and education of staff, and stricter record keeping.

Next steps in the process

No hearing is to be held in respect of the proposed NES. The submissions will be summarised by the Ministries, along with an assessment of the appropriateness of the NES to giving effect to Resource Management Act 1991 tests, its costs and benefits. The final form will then be recommended to the Governor-General for implementation by order in council.

MPI has indicated that the NES could come into force by mid-2018.

Potential concerns for your existing and future operations

You might have questions or concerns about the implications of the NES, such as the following:

- is the requirement to implement a biosecurity management plan reasonable and are the matters to include in such a plan workable? Does a standardised approach to biosecurity allow for region-specific management issues?
- are the matters of discretion too broad or too narrow to provide for an efficient consenting process? Is restricted discretionary an appropriate activity status for renewal permits which are not otherwise changing their effects on the environment, or would controlled status be more appropriate?
- should some new applications for marine farming, or expanded operations, also be standardised or streamlined across councils?

Want to know more?

If you have questions about how the proposed NES affects you and how to make a submission, contact our specialist [Environment, Planning and Natural Resources Team](#).