

Aquaculture management in the future resource management system

Introduction

Marine aquaculture is one of the main uses of coastal space in many regions of Aotearoa New Zealand. Aquaculture in the territorial sea (that is, out to 12 nautical miles) is currently managed under the Resource Management Act 1991 (RMA) and will continue to be managed under the reformed resource management system.

The key outcomes of the reform

The key outcomes for aquaculture in the reformed resource management system are providing for more certain and efficient resource consenting processes and ensuring the Crown can best deliver on its obligations under the Māori Commercial Aquaculture Claims Settlement Act 2004 (the Settlement Act). The reforms aim to promote investment confidence, increase Māori participation in the sector and provide for new opportunities (such as open ocean aquaculture). It also enables the industry to adapt more readily to climate change, cumulative effects, and biosecurity.

Another key outcome of the reform is early identification of appropriate space for aquaculture, which will ensure environmental effects are appropriately managed and takutai moana rights are upheld.

Achieving these outcomes relies on planning undertaken through the development of regional spatial strategies (RSSs) and Natural and Built Environment (NBA) plans. The NBA plans are expected to be in place over the next seven to ten years.

This planning will be supported by new aquaculture-specific central government tools as well as enhancements to existing tools. These tools will complement strategic direction on aquaculture planning and the setting of limits and targets in the coastal marine area through the National Planning Framework (NPF).

The tools will enable central government to play a more active leadership role at both a national and regional level, in aquaculture planning and allocation, and improve its ability to give effect to Settlement Act obligations.

Once RSSs and NBA plans are in place and supported by direction under the NPF, this will allow early identification of ecologically important sites, community and cultural values, as well as other uses of the coastal marine area. In turn, this will mean consenting for aquaculture can become more certain, efficient and flexible.

Aquaculture and regional spatial strategies

Strategic spatial planning for the coastal marine area will occur as part of the development of regional spatial strategies. These will set the region's strategic vision for aquaculture for the next 30 years, including the amount of anticipated growth and indications on where this might happen. Regional spatial strategies will encompass both the land and the sea, connecting anticipated aquaculture growth and the land-based infrastructure needed to service that growth. The strategies will also be able to consider cross-boundary matters, such as aquaculture in the open ocean, and benefit the delivery of the aquaculture settlement.

Regional planning committees will have to consider the New Space Plan developed under the Settlement Act and notify the Minister responsible for the Settlement Act in advance of the content in the draft strategies. This early step is intended to prompt engagement between the Crown and iwi to ensure the Crown's settlement obligations in that region can be meaningfully delivered in the future.

Aquaculture and Natural and Built Environments Act plans

Regional planning committees will play a lead role in developing detailed planning and zoning for aquaculture. There will be no change to existing requirement around rules for aquaculture activities having immediate legal effect on notification of an NBA plan and the Minister responsible for aquaculture will still be required to be consulted during the preparation of NBA plans.

In addition, the current approach to managing the occupation of coastal marine space will be maintained in the new resource management system. This will include the ability to use authorisations to provide a right to apply for a coastal permit to occupy space.

Restrictions on applications in aquaculture settlement areas established under the Settlement Act will be maintained to protect these areas for future settlement processes. In addition, a new requirement will ensure NBA planning maps are updated promptly as soon as new aquaculture settlement areas are created. This is to ensure NBA plan users are aware of the restrictions that apply within those areas.

Transition period

This new requirement will also apply during the transition period through amendments to the Resource Management Act (RMA).

A more active leadership role for central government

Central government will continue to have tools to enable it to play a more active leadership role in aquaculture planning and allocation at a national or regional level.

The Minister responsible for aquaculture will retain the ability to recommend regulations that amend plan provisions to achieve the Government's objectives for aquaculture, including providing for aquaculture settlement obligations. This tool will be enhanced to enable the Minister to specify situations where the Minister, rather than the regional council, would be responsible for allocating authorisations for aquaculture-related resources. This will facilitate strategic cross-regional allocation which will be particularly important for open ocean aquaculture to:

- ensure biosecurity risks are adequately managed
- enable integrated production models across regional boundaries.

Transition period

Ministerial-led allocation will also be enabled during the transition period through amendments to the RMA.

The Minister responsible for aquaculture will also be able to apply a temporary stay on receipt of consent applications for aquaculture (either on their initiative or at the request of regional councils or regional planning committees) for situations:

- with high and competing demands, or
- requiring better planning controls for biosecurity, or
- where aquaculture settlement needs to be provided for.

This power would be used to allow the Minister, regional planning committee or regional council to resolve the issues by either amending the NBA plan or through the use of other mechanisms or tools under the NBA, Settlement Act, or biosecurity-related legislation.

Transition period

Amendments to the RMA equivalent of this tool will also be made to enable the Minister to use this power at their own initiative during the transition period.

Collectively, these system improvements create a greater suite of tools to protect the aquaculture settlement process and ensure settlement assets align with the resource management planning system.

Aquaculture consenting

Consents for aquaculture will continue to have a default minimum duration of 20 years, with some exceptions. This is to provide greater investment certainty for existing and new aquaculture developments. Maximum consent durations of 35 years will remain, in line with durations for other resources. Similarly, consent lapse periods for aquaculture will be set at five years, in line with other activities.

Replacement consents for existing marine farms will be managed in a similar way to the current approach. This means the new system will preserve priority for existing consent holders, and the policy intent of the National Environmental Standards for Marine Aquaculture will be incorporated into the NPF.

The current statutory prohibition on aquaculture activities being authorised as permitted activities (s68A of the RMA) will be removed in certain circumstances. This will be to better enable NBA plans to provide for activities proportionate to their effects on the environment. This could only apply to limited types of aquaculture activities to ensure aquaculture and fisheries settlement rights are upheld.

Takutai moana rights would still be upheld with respect to any permitted aquaculture activities. This means a person looking to undertake a permitted aquaculture activity will need permission from the holders of the relevant customary marine title.

The Minister responsible for aquaculture will continue to be able to direct, that consent applications for aquaculture are processed and heard together to better manage cumulative effects. This power will be able to be exercised either at the request of the regional council or at the Minister's own initiative.

Changes to the undue adverse effects on fishing test under the Fisheries Act 1996

The Ministry for Primary Industries will continue to undertake a test for undue adverse effects on fishing (the UAE test) under the Fisheries Act 1996 to assess the potential effects of proposed marine farms on commercial, recreational and customary fishing.

The NBA will enable the UAE test to be carried out for any aquaculture zones established in NBA plans, meaning that no UAE test would be required at the consenting stage. Where a zone-level UAE test is not carried out at the NBA planning stage, the UAE test would take place once consent is granted.