



Cabinet Environment, Energy and Climate Committee

Minute of Decision

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National Environmental Standard for Marine Aquaculture: Policy Approval and Agreement to Draft Regulations

Portfolios Environment / Fisheries

On 13 June 2019, the Cabinet Environment, Energy and Climate Committee:

- 1 **noted** that marine aquaculture is an important component of New Zealand's primary sector;
- 2 **noted** that the existing regulatory framework for marine aquaculture is complex and inefficient, with inconsistent rules between regions, and that this creates regulatory uncertainty;
- 3 **agreed** that greater regulatory consistency and certainty is necessary to:
 - 3.1 reduce costs for councils and the aquaculture industry in processing upcoming replacement consent applications;
 - 3.2 ensure consistency in the best practice management of environmental effects;
 - 3.3 as a consequence of paragraphs 3.1 and 3.2 above., increase confidence to invest in the industry;
- 4 **noted** that a proposed national environmental standard to achieve these objectives has been publicly notified and consulted on in accordance with the Resource Management Act 1991 (RMA);
- 5 **invited** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to draft a National Environmental Standard for Marine Aquaculture, consistent with the proposals set out in the section 46A(4)(c) report and recommendations to the Minister on the submissions and subject matter of the proposed National Environmental Standard for Marine Aquaculture, which would:
 - 5.1 make applications for replacement consents for existing marine farms a restricted discretionary activity, including opportunities for small-scale realignments and changes in approved species, provided the area has not been identified as inappropriate for aquaculture in a regional coastal plan;
 - 5.2 clearly specify matters of discretion which councils would consider when determining whether to grant or decline a replacement consent application. These matters of discretion address the key environmental effects of aquaculture, and encompass ecological effects determined through an extensive scientific literature review of the effects of aquaculture;

- 5.3 preclude public or limited notification for most replacement consent applications, except to affected tangata whenua and where special circumstances and other RMA notification exceptions apply (sections 95A and 95B). Councils would follow the normal statutory tests under the RMA to determine whether to notify replacement consent applications that include realignment, species changes that require changes in structures (beyond subsurface structures) and/or involve finfish, and any applications in areas that the councils have determined to be inappropriate for aquaculture (if applications are allowed at all in that area);
 - 5.4 require pre-application consultation by the applicant to identify and consider tangata whenua values in deciding replacement consent applications. Where this consultation does not occur, a broader matter of discretion on tangata whenua values would apply and limited notification would not be precluded, so that iwi could submit on the application;
 - 5.5 clarify that consideration of the effects of an existing marine farm on an outstanding area is limited to farms that are partially or fully within an outstanding area;
 - 5.6 enable, as part of a replacement consent application, a change to the location of an existing marine farm by up to one third of the farm area, to address adverse environmental effects associated with the existing location. Farms larger than 10 hectares and those that use supplementary feeding would not qualify for this provision;
 - 5.7 enable, as a part of a replacement consent application for an existing marine farm, the ability to change the species farmed. Four categories of species changes would be recognised, with specific matters of discretion to manage the effects created by the species to be added or any changes to farm structures, and appropriate notification requirements for each type of species change;
 - 5.8 allow councils, through their regional coastal plans (which undergo a significant public consultation process) to set activity status for consent applications for existing marine farms that are more lenient than the proposed standard;
 - 5.9 in areas where, after 1 January 2019, regional councils have determined that aquaculture is inappropriate through their regional coastal plan, set a discretionary activity status for replacement consent applications and allow councils to set an activity status that is more stringent;
 - 5.10 require that regional councils only grant a resource consent for a marine farm (whether an existing farm or a new application) where a biosecurity management plan has been lodged and assessed by the regional council as meeting the criteria specified in an externally referenced document which will be developed by Fisheries New Zealand;
 - 5.11 for existing consents that do not expire before 31 January 2025, require councils to review the consent before that date to implement a biosecurity management plan;
 - 5.12 the replacement consenting, realignment and change of species provisions will not apply to marine farms in Wainui Bay and the Tasman Aquaculture Management Areas in the Tasman District, or the Wilson Bay Marine Farming Zone in the Waikato Region;
- 6 **noted** that the Minister for the Environment has agreed the proposed National Environmental Standard for Marine Aquaculture is consistent with requirements under the Resource Management Act 1991;

- 7 **noted** that the proposed standard is consistent with the government's priority goal to recognise the potential contribution of aquaculture to regional economic growth, while ensuring management within environmental limits;
- 8 **noted** that iwi have been consulted during development of the proposal, and the proposal is expected to deliver net benefits to iwi with aquaculture interests;
- 9 **agreed** that the Minister for the Environment and Minister of Fisheries release an exposure draft of the regulations to identified stakeholders, subject to advice from the Ministry for the Environment's Chief Legal Advisor;
- 10 **agreed** that the Minister for the Environment and Minister of Fisheries approve the final details of the regulations to give effect to the policy in the paper attached under ENV-19-SUB-0022, as may be required;
- 11 **noted** that any changes will be reported to the Cabinet Legislation Committee when seeking approval for the regulations to be signed by the Governor-General by Order in Council;
- 12 **noted** that Fisheries New Zealand will monitor and evaluate the effectiveness of the proposed standard;
- 13 **agreed** to the publish the section 32 RMA report (as required by section 32(5) of the RMA) and the section 46A(4)(c) report and recommendations on the submissions and subject matter (as required by section 44(1)(d) of the RMA), subject to minor editorial changes as agreed by the Minister for the Environment and the Minister of Fisheries;
- 14 **agreed** to an initial review of the effectiveness of the regulations and their implementation after 3 years, with a second wider review to evaluate the effectiveness of the regulations after 8 years.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Phil Twyford
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Nanaia Mahuta
Hon Stuart Nash
Hon James Shaw
Hon Eugene Sage

Officials present from:

Officials Committee for ENV

Hard-copy distribution:

Minister for the Environment
Minister of Fisheries