



Regulatory Impact Statement: National Environmental Standards for Marine Aquaculture (NES-MA)

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| Decision sought | <i>This RIS and the related discussion document accompany a Cabinet paper seeking agreement to include proposals for changes to the National Environmental Standards for Marine Aquaculture (NES-MA) in public consultation.</i> |
| Agency responsible | <i>Ministry for Primary Industries (MPI), Ministry for the Environment (MfE)</i> |
| Proposing Ministers | <i>Minister for Oceans and Fisheries, Minister responsible for RMA Reform</i> |
| Date finalised | <i>9 April 2025</i> |

Ministers are proposing to amend the National Environmental Standards for Marine Aquaculture (NES-MA) to ensure they remain fit for purpose and encourage greater growth and innovation in the aquaculture sector. The proposed amendments:

- Address issues with the replacement consenting process under the NES-MA; and
- Streamline consenting pathways for certain aquaculture activities outside the replacement consenting process; this includes enabling some research and trials in existing and new space with some limited small-scale activities no longer requiring consents.

Summary: Problem definition and options

What is the policy problem?

A review of the NES-MA in 2023 and feedback from engagement in 2024 identified some issues with making changes to marine farm consents. Consenting processes are often disproportionate to the effects of the change or activity in question, which limits innovation and growth in the aquaculture industry.

The following problems were identified:

- At replacement consenting (reconsenting), marine farmers can only apply to change structures if they are also changing species. They cannot apply to only change structures.
- Only marine farms consented before the NES-MA came into force (2020) are permitted to use provisions in the NES-MA regarding the change of species and structures.
- Marine farmers are currently prohibited from adding spat catching to their farms during reconsenting.
- The current Section 127 (s127) of the RMA allows consent holders to apply to change consent conditions during the lifetime of the consent. Councils have wide discretion in

considering these applications which creates uncertainty for industry. There is no consistent approach to consenting research and trials for aquaculture.

What is the policy objective?

The Government has set the following objectives for the Primary Sector package in the National Direction work programme under Phase 2 of the Government's resource management system reform:

- a. enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticultural, and mining);
- b. safeguarding the environment and human health;
- c. adapting to the effects of climate change and reducing the risks from natural hazards;
- d. improving regulatory quality in the resource management system; and
- e. upholding Treaty of Waitangi settlements and other related arrangements.

The Government has agreed to progress amendments to the NES-MA to increase flexibility for marine farmers to innovate, improve management of existing marine farms and make minor and technical changes.

Success of the proposals will be measured against the following criteria: effectiveness, efficiency, alignment with the wider statutory framework, clarity of implementation, and consistency with the Treaty of Waitangi.

What policy options have been considered, including any alternatives to regulation?

Officials have developed two options, in addition to the status quo, in response to the identified issues. Each option consists of several proposals and options are not mutually exclusive. Ministers are proposing to progress both Options 2 and 3 to public consultation.

Option 1 – Status quo

If the status quo continues, issues with the reconsenting process will remain and councils will continue to have wide discretion in making decisions on changing consent conditions. Consenting processes for research and trial activities will continue to be lengthy and costly.

Option 2 - Addressing known issues in the NES-MA

Option 2 proposes to address some small issues in the NES-MA and improve their drafting without making significant change to the application of the NES-MA. This option consists of three proposals, which are all recommended to progress to consultation:

Proposal 2a: Increasing security of shellfish spat supply: The NES-MA currently exclude 'the addition of spat catching from a farm' when reconsenting. Removing this restriction enables existing farms to catch spat of their consented shellfish species.

Proposal 2b: Better enabling changes to marine farms when reconsenting: This proposal proposes two small amendments to the NES-MA by:

- 1) Removing the restriction that only marine farms that obtained consents before the NES-MA came into force in 2020 can use the NES-MA regulations to make changes at reconsenting.
- 2) Enabling marine farmers to make changes to their on-farm structures without having to change species.

Proposal 2c: Minor and technical changes: Some minor changes of technical nature were identified through the Year Three review and are being progressed through this process.

Option 3 – Making aquaculture consenting processes more proportionate to the effects of activities in the NES-MA

The proposed option, consisting of two proposals, seeks to constrain the matters of discretion or matters of control that councils can consider when making decisions on a new

activity or change if the effects of the activity are limited. Both proposals are recommended to progress to consultation.

Proposal 3a: Set out a more lenient activity status for certain changes in consent conditions: This proposal specifies a 'controlled' activity status for some changes to consent conditions in the NES-MA. Matters of control would also be restricted. Applications for controlled activities in almost all cases must be granted by consent authorities, although conditions relating to matters of control can be applied.

Proposal 3b: Enable new regulatory pathways for research and trial activities on new and existing farms: This proposal amends the NES-MA by enabling the consenting activities in new space and the setting of permitted activities. This proposal:

- 1) sets out a streamlined consenting process for research and trial activities both within existing consented space and in new space; and
- 2) makes some small-scale trials of structures (with no livestock involved) permitted activities that do not require a consent.

Enabling pathways for new consents, permitted activities, and changes to consent conditions are all new uses for the NES-MA.

We consider that non-regulatory options will not sufficiently address the problems to meet the objectives of this RIS. Option 2 resolves drafting issues identified in the NES-MA. Non-regulatory proposals for Option 3 such as greater guidance are unlikely to increase the efficiency of consenting pathways as implementation by consenting authorities would be uncertain, variable and inconsistent.

What consultation has been undertaken?

Officials undertook targeted engagement with the aquaculture industry, councils, Iwi Aquaculture Organisations (IAOs), some Post-Settlement Governance Entities (PSGEs), and research providers during policy development in 2024. Participants, particularly from the aquaculture industry and IAOs, generally supported the proposed amendments to the NES-MA. Key feedback was that matters of discretion needed to be carefully considered to limit risks. Councils noted that bespoke aquaculture processes would be administratively difficult and that existing processes were working well.

Public consultation, including with Treaty partners, on the National Direction package will take place in 2025.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes, the preferred options to amend the NES-MA contained in the RIS are the same as the recommended options in the cabinet paper.

Summary: Ministers' preferred options in the Cabinet paper

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| <p>Costs and benefits</p> <p>Outline the key monetised and non-monetised costs, where those costs and benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)</p> <p>The proposed changes to the NES-MA primarily impact marine farmers with existing marine farm consents, consent authorities, Māori groups with aquaculture interests and customary rights and interests in the coastal marine area, and organisations undertaking aquaculture-related research activities. It is not expected that these options will have an impact on competition.</p> <p>The costs and benefits of the recommended combination of Options 2 and 3 include:</p> <ul style="list-style-type: none"> • The aquaculture industry is expected to receive direct ongoing benefits due to greater efficiency of consenting processes reducing time and costs. • There are initial administrative costs to consent authorities due to the implementation of the options. However, we expect that the proposed streamlined processes will lead to a reduction in administrative costs for consent authorities in the short to medium term. • Enabling new regulatory pathways for research and trial activities (Proposal 3b) will reduce the costs and uncertainty of research consenting. This directly benefits research organisations and other parties undertaking aquaculture-related research and trials. • The proposed changes could directly benefit iwi / Māori participation in the industry by streamlining processes and increasing certainty for aquaculture activities. There may be ongoing costs through fewer opportunities for input in streamlined decision processes. Some activities consented through the new processes might also reduce Māori customary access, rights, and interests. |
| <p>Balance of benefits and costs (Core information)</p> <p>Does the RIS indicate that the benefits of the Ministers' preferred options are likely to outweigh the costs?</p> <p>The preliminary marginal costs and benefits of the proposed amendments to the NES-MA indicate that the benefits of the Ministers' preferred options are likely to outweigh the costs.</p> <p>Public consultation will inform the final costs and benefits of the proposed amendments to the final NES-MA.</p> |
| <p>Implementation</p> <p>How will the proposal be implemented, who will implement it, and what are the risks?</p> <p>If progressed, all proposed changes to the NES-MA will have immediate legal effect. Consenting authorities will be responsible for processing and administering applications submitted using NES-MA regulations.</p> <p>It is anticipated that the changes, with the exception of Proposal 3b, will be straightforward to implement as these proposals will continue using the current NES-MA systems in place. To support implementation, especially with Proposal 3b, guidance material will be developed and made available to assist stakeholders if it is necessary.</p> |
| <p>Limitations and Constraints on Analysis</p> <p>Policy development has been progressed under tight timeframes due to Government commitments. This has impacted the availability of evidence to assess the proposals and limited the scope and complexity of the analysis.</p> |

The lack of public consultation to date has limited the analysis of the proposals. There also was only limited time to engage with key external parties on the proposal, including with IAOs, PSGEs and other iwi groups. This means that participants may not have had sufficient time to thoroughly consider the proposals and their impacts and provide feedback.

Other limitations include insufficient data on the scale and impact of the problem, economic analysis of the amendments, and information about consequential effects of any amendments.

There is also limited analysis of the impacts of the proposals on existing Treaty Settlements, and groups with Mana Whakahono ā Rohe or other arrangements with councils.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

Alastair Cameron

Director, Primary Sector Policy,

Ministry for Primary Industries

9 April 2025



Responsible Manager(s) signature:

Hayden Johnston

General Manager, Natural Environment

Ministry for the Environment

17 April 2025



Quality Assurance Statement

Reviewing Agency: MfE lead with MPI panel member

QA rating: Meets

Panel Comment:

A quality assurance panel with members from the Ministry for the Environment and the Ministry for Primary Industries has reviewed the interim Regulatory Impact Statement. The panel considers that it meets the Quality Assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The aquaculture sector contributes \$763 million annually to Aotearoa New Zealand's economy, employing 3,300 people across New Zealand. There is significant potential for the aquaculture industry to contribute to the Government's export growth goals, and the Government has committed to support growing and future-proofing the sector. Maximising the value of existing aquaculture space as well as consenting new aquaculture space will be needed to realise the sector's growth. To achieve this, regulations that hinder productivity and potential of aquaculture development need to be streamlined or made more enabling.
2. Existing marine aquaculture is primarily managed by the RMA and associated regulations such as the New Zealand Coastal Policy Statement (NZCPS) and the National Environmental Standard for Marine Aquaculture (NES-MA). The NES-MA were established in 2020 with the intent to provide more consistent and certain rules for replacement of coastal permits (reconsenting).
3. The NES-MA's objectives¹ are to:
 - increase consistency of reconsenting and environmental management of existing marine farms,
 - increase regulatory certainty, and
 - increase confidence to invest in the industry.
4. The NES-MA do this by limiting matters² that consent authorities³ can take into account when making decisions during reconsenting as well as reducing public notification for most reconsenting applications. The NES-MA also establish a process for applicants to engage with tangata whenua to seek their views on draft consent applications. Regional councils (councils) take these views into account when the application is determined.
5. The Year Three review of the NES-MA⁴, undertaken in 2023, found that the NES-MA were effective overall and had met their objective. However, some issues have come up that were not anticipated when the NES-MA were made. In response, the review made several recommendations about where amendments to the NES-MA could be considered, additional guidance could be developed, or further engagement could be undertaken⁵.
6. The proposals included in this document seek to implement a number of the NES-MA review recommendations by amending the NES-MA.

Government's reform of the resource management system

7. The Government has committed to targeted legislative changes to the RMA through the Resource Management (Consenting and Other System Changes) Amendment (RM (COSC) A) Bill and a suite of changes to National Direction to drive economic

¹ <https://www.beehive.govt.nz/release/new-standards-existing-marine-farms-provide-consistency>

² Called matters of discretion

³ Primarily regional councils

⁴ When the NES-MA were made, Cabinet agreed to an initial review of the effectiveness and implementation of the NES-MA after three years, with a second wider regulatory review to evaluate the effectiveness of the NESMA after eight years.

⁵ <https://www.mpi.govt.nz/dmsdocument/59173-Report-on-the-Year-Three-Review-of-the-National-Environmental-Standards-for-Marine-Aquaculture>

growth and productivity as part of Phase 2 of its reform of the resource management system.⁶

8. Cabinet has agreed to include the NES-MA amendments in Phase 2 with the aim to 'increase flexibility to innovate, improve management of existing marine farms and make minor and technical amendments' [CAB-24-MIN-0246 refers].
9. Government is progressing changes to the NES-MA as part of its Primary Sector package, which aims to drive primary sector productivity. The changes to the NES-MA have also been informed by Coalition agreements, including the National – New Zealand First commitment to “enhance [the] primary sector including fish and aquaculture” and remove regulation that impedes the productivity and enormous potential of the seafood sector as a priority.

Interdependencies and links

10. The proposed amendments complement Government initiatives to support and future-proof the aquaculture sector and remove unnecessary administrative burdens from the consenting process, including: the Fast Track Approvals Bill⁷ and particularly the Resource Management (Extended Duration of Coastal Permits for Marine Farms) Act 2024, which have been progressed as part of RM reform.
11. The proposed amendments to the NES-MA:
 - Are intended to be partially enabled by proposed amendments to s127 of the current RMA (under which marine farmers can seek change of conditions), which are progressing through the Resource Management (Consenting and Other System Changes) Amendment Bill, and
 - Could interact with the NZCPS as the NES-MA contains NZCPS-related policies.

20-year consent extension

12. In mid-2024, the Government passed the Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Act. This Act specifically responded to the 300 resource consents due to expire in 2024/25 and extended current resource consents for all marine farms by up to 20 years, but not beyond 2050.⁸ The 20-year consent extension provides more certainty for the future of marine farms by removing the consenting burden from industry. This will allow marine farmers to invest into innovation and on-farm changes instead of spending time and money on consent applications.
13. Despite removing the need to re-consent for another 20 years, marine farmers may still need to make changes to their farm during the term of their consent. This may be due to a need to respond to changes in the environment, technology, or the market.

RM (COSC) A Bill includes changes that enable one of the NES-MA proposals

14. Consent holders can use the current s127 to change or cancel consent conditions without needing to re-consent. Applications being processed through s127 will be considered as a discretionary activity. This means a council can consider a wide range

⁶ Phase 1 included repealing the Natural and Built Environment Act and Spatial Planning Act to revert to the RMA. Phase 3 will establish new resource management legislation.

⁷ The Fast Track Approvals Bill seeks to establish a permanent fast track approvals regime for a range of infrastructure, housing and development projects.

⁸ [Certainty for marine farms through reforms | Beehive.govt.nz](https://www.beehive.govt.nz/certainty-for-marine-farms-through-reforms)

of matters when making a decision on the application.⁹ This pathway results in uncertainty for consent holders.

15. Cabinet has agreed to progress amendments to the current s127 through the RM (COSC) A Bill to enable consent conditions for certain aquaculture activities to be changed more easily by making them controlled activities.¹⁰
16. There are three types of changes to consent conditions that are proposed to be controlled activities:
 - applications to change consent conditions relating to consented species;
 - applications to change consent conditions relating to structures; and
 - applications to change consent conditions relating to monitoring.
17. The proposed streamlined process should not be used if the change in consent conditions would result in additional adverse effects or would fundamentally change the activity. Consenting authorities are required to assess whether the application meets these requirements, or whether it should be processed as an application for a new consent.
18. An impact analysis of the proposed change to the current s127 was included in the regulatory impact assessment of the RM (COSC) A Bill.

Proposed NES-MA changes must be consistent with the NZCPS

19. The NZCPS guides councils in their day-to-day management of the coastal environment. Proposed changes to the NES-MA must be consistent with and align with the relevant objectives and policies of the NZCPS. Officials consider the proposals are aligned.
20. Changes to the NZCPS are also being progressed through the National Direction work programme. This includes changes Policy 8 (Aquaculture) to better recognise the broader cultural and environmental benefits of aquaculture, and direct decision makers to provide for aquaculture activities within aquaculture settlement areas. Having consulted with officials from DOC, we do not expect the NZCPS changes to impact the NES-MA proposals.

What is the policy problem or opportunity?

21. The Year Three review of the NES-MA, completed in 2023, alongside recent engagement with stakeholders and some Treaty partner groups have identified key areas for improvement to consenting processes that could be addressed by amending the NES-MA. In particular, the existing processes and regulatory hurdles for making changes to consents are often disproportionate to the effects of the change or activity in question. These disproportionate consenting processes are limiting innovation and growth in the aquaculture industry.
22. The following problems with the current NES-MA have been identified:
 - At the time of reconsenting, marine farmers can currently only apply to change the structures they are consented to farm if they are also changing their species.¹¹ However, they cannot apply to change their structures alone. This was an oversight in the original policy design of the NES-MA. It is an unnecessary barrier to marine farmers seeking to make changes to their farms, for example to

⁹ Though they can only consider matters relating to the effects of the change, rather than the entire marine farm.

¹⁰ Applications for controlled activities must be granted, however matters of control can be applied.

¹¹ NES-MA Regulation 26, 29, 32, 35

uptake innovative technologies, adapt to climate change, and increase productivity.

- Only marine farms consented before the NES-MA came into force (2020) are permitted to use provisions regarding the change of species and structures.¹² This limitation was originally put in place as it was considered that farms consented after 2020 would apply for a wider range of species and therefore not need to use provisions to amend species. The evidence suggests that this assumption has not held up, and this is an unnecessary and arbitrary barrier to more recently consented aquaculture farms.
 - NES-MA Regulation 25 (2)(d) states that marine farmers are currently prohibited from adding spat¹³ catching to their farms during re consenting. Following analysis, officials consider there is no clear rationale for this. At present, to add spat catching, marine farmers need to apply to change consent conditions through the RMA or obtain a new consent through plan rules, both of which can be costly and inefficient.
 - The current s127 of the RMA allows consent holders to apply to change consent conditions during the lifetime of the consent. Councils have wide discretion in considering these applications. The aquaculture industry has raised that this is decreasing industry certainty and is increasing the regulatory burden on the sector, which is reducing industry development and innovation.
 - There is currently no consistent approach to consenting research and trials for aquaculture, which leads to uncertainty and means the cost and time of the process is often disproportionate to the scale of the activity being applied for. Short-term, small-scale research and trial activities are often required to go through the same consenting process as a large commercial farm.
23. The recent 20-year consent extension could bring some of these issues to a head, particularly around changing consent conditions during the term of a consent. As marine farmers will not need to re consent for 20 years, it will be important to provide effective pathways to update their consent conditions in response to changes in technology, environmental conditions, or the market.
24. Some of these issues relate to the re consenting process. The 20-year consent extension will carry over the current conditions on a consent, which may not provide the flexibility that marine farmers need when adapting farming operations in line with technological advancements and environmental conditions. It is possible that applications for replacement consents will be made in the next 20 years, as they would enable substantive changes to be made to consent conditions. Implementing these amendments would ensure that the re consenting process is cost- and time-effective. It is also important that the regulatory system remains fit for purpose and continues to work as intended.
25. The NES-MA also contain four minor and technical errors, identified through the Year Three review, that need to be corrected to provide clarity for the NES-MA's interpretation.

What objectives are sought in relation to the policy problem?

26. The Government has set the following objectives for the Primary Sector package in the National Direction work programme under Phase 2 of the Government's resource management system reform:

¹² NES-MA Regulation 25 (1)

¹³ In regard to the NES-MA, spat are juvenile shellfish. They can include other species in other legislation.

- enabling primary sector growth and development (including aquaculture, forestry, pastoral, horticultural, and mining),
 - safeguarding the environment and human health,
 - adapting to the effects of climate change and reducing the risks from natural hazards,
 - improving regulatory quality in the resource management system; and
 - upholding Treaty of Waitangi settlements and other related arrangements.
27. The package covers changes to National Environmental Standards/National Policy Statements for Freshwater Management, Freshwater, Human Drinking Water Sources, Commercial Forestry, Indigenous Biodiversity, Highly Productive Land, and Marine Aquaculture, along with changes to the New Zealand Coastal Policy Statement.

What consultation has been undertaken?

28. There was limited time to engage with external parties on the proposal. Officials held targeted engagement sessions¹⁴ with the aquaculture industry,¹⁵ all councils, IAOs and some PSGEs,¹⁶ and research providers.¹⁷ Officials canvassed initial policy thinking, analysis and the options contained in the RIS with parties.
29. Due to the timeframes available, those engaged with may not have had sufficient time to thoroughly consider the proposals and their impacts and provide feedback. As this engagement was targeted, some perspectives may not be reflected in the analysis.
30. Officials have not yet engaged with the public on this proposal, which is in part due to limited timeframes to deliver the National Direction package.
31. Public consultation on the National Direction package will take place in 2025 and will provide another opportunity for the Government to consider views from IAOs, PSGEs, and other groups with interests in aquaculture before proposals are finalised.

Treaty partners

32. There was limited opportunity and time to consult with IAOs, PSGEs and other iwi groups. Given the short timeframes and competing demands from the wider National Direction reform package, officials received more feedback from IAOs than from PSGEs (noting that there is overlap between these groups). Detailed analysis of impacts of the proposals on Māori rights and interests is included in a separate Treaty Impact Analysis.
33. Further engagement will be required to ensure obligations under Treaty settlements and other arrangements are met. There will be opportunities to do this alongside public consultation.

¹⁴ These sessions took place once in June and once in August 2024. we met with each group once during each session, except for Te Ohu Kaimoana. Te Ohu Kaimoana participated in both the industry and the IAO/PSGE sessions.

¹⁵ Industry organisations we talked to included Aquaculture New Zealand, Marine Farmers Association, King Salmon, Sandford, Gascoigne Wicks, Coromandel Marine Farming Association, Maclab, Moana.

¹⁶ IAOs and PSGEs we talked to include Te Nehenehenui, Ngāti Kahungunu, Tuwharetoa, Te Uri-o-Hau, Ngai Tahu, Ngāti Toa, Te Rarawa, Ngāti Tama, Ngāruahine, Ngāti Whakaue, Te Rūnanga o Ngā Wairiki Ngāti Apa, Ngāti Hineuru, Ngāti Tamaoho.

¹⁷ NIWA, Plant and Food, Cawthron, University of Auckland.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

34. The following criteria were chosen to assess the different proposals against the objectives set out in paragraph 26. The criteria are the same for all National Direction changes in the Primary Sector package.
- **Effectiveness:** The extent to which the option contributes to the attainment of the relevant high-level objectives, including upholding Treaty settlements. The option should also provide a solution to the identified problem.
 - **Efficiency:** The extent to which the option is the best way to achieve the objectives, and at a cost that is appropriate. The option should also provide enough flexibility to allow local circumstances to be adequately taken into account at the local level.
 - **Alignment:** The extent to which the option integrates well with other proposals and the wider statutory framework.
 - **Implementation:** The extent to which the option is clear about the requirements for its implementation by local government/others and that it can be easily implemented.
 - **Treaty of Waitangi:** The extent to which the option is consistent or gives effects to Treaty settlements and te Tiriti principles.

What scope will options be considered within?

35. Policy development has been progressed under tight timeframes. This has impacted the availability of evidence to assess the proposals and has limited the scope and complexity of the analysis. The constraints relate to:

Previous Cabinet decisions

36. The Government has agreed the NES-MA amendment package should ‘increase flexibility to innovate, improve management of existing marine farms and make minor and technical amendments.’ [CAB-24-MIN-0246 refers].

Purpose of the NES-MA

37. The proposed amendments were developed to remain within, and support the NES-MA objectives to:
- increase regulatory consistency and certainty,
 - ensure environmental effects are appropriately managed; and
 - increase industry confidence to promote investment.

Pace of reform

38. The Government has committed to developing and amending a package of National Direction documents. This package is due to be implemented by mid-2025. This means that there is a short timeframe for engagement with Treaty partners and stakeholders.

Data and evidence

39. Data on the scale and impact of the problem, economic or cost/benefit analysis of the amendments, and information about consequent effects of any amendments progressed is limited.
40. There is some evidence from industry and some iwi groups indicating that the consenting process:

- Increases uncertainty due to the inconsistent approaches to providing for aquaculture in coastal plans,
 - Can be costly. The cost to renew a mussel farm is approximately \$20,000, while the cost to renew a salmon farm can vary between \$20,000 to \$100,000 depending on where it is located; and
 - Can be time consuming. For example, Plant and Food ultimately obtained a consent through the Covid-19 Recovery (Fast-track Consulting) Act 2020 in June 2024 for their Re-imagining aquaculture project as they were unable to find a suitable consenting pathway for several years.
41. Due to short engagement timeframes, there is also limited analysis of the impacts of the proposals on existing Treaty Settlements, and groups with Mana Whakahono ā Rohe¹⁸ or other arrangements with councils around resource management plans and/or consenting decisions.
42. We are considering providing more guidance to support the regulatory options that are being considered in this RIS. Non-regulatory options, such as guidance, have not been considered as they would not resolve the problems identified in Paragraph 22.

What options are being considered?

43. Based on recommendations from the Year Three review of the NES-MA and feedback from recent engagement, lead agencies MPI and MfE have developed two options, in addition to the status quo (Option 1), for amending the NES-MA. Options 2 and 3 contain several distinct proposals and can both be delivered for greater impact.

Option 1 – Status quo

44. Option 1 is retaining the status quo and makes no further changes to the NES-MA.
45. The Year Three review identified areas relating to re-consenting in the NES-MA that may cause issues for marine farmers, such as those relating to changing structures and adding spat catching to existing marine farms. These issues are not likely to have significant impact in the short- to medium-term, as fewer marine farmers are likely to seek re-consenting due to the 20-year consent extension.
46. Still, the re-consenting process is often used to change consent conditions and update practices as farmers find the re-consenting process easier than the process under the RMA to change consent conditions (current s127).
47. There is a risk that the current difficulty in making changes to consents limits innovation and growth in the aquaculture sector, as marine farmers will not have an effective and efficient pathway to make changes to their farms.
48. If the status quo continues, consenting processes for research and trial activities will continue to be lengthy and costly. There is anecdotal evidence that research is moving to other countries because of the uncertain and often difficult consenting environment in New Zealand. If the status quo continues, it is likely that this will become more common.
49. This regulatory barrier will limit innovation and diversification of the aquaculture industry. If relevant research cannot be conducted, or is untested in New Zealand's waters, industry might be less inclined to invest in new technology or consider farming new species.

¹⁸ They are Iwi Participation Arrangements and were designed to assist tangata whenua and local authorities to discuss, agree and record how they will work together under the RMA.

Option 2 - Addressing known issues in the NES-MA

50. Option 2 proposes to address some small issues in the NES-MA and improve their drafting without making significant change to the application of the NES-MA.
51. In the original NES-MA, some provisions were included or omitted, resulting in consequences that were not anticipated when the NES-MA were made. These issues are not contentious. When corrected, these changes would streamline regulations, making them more proportionate to the intended outcome.
52. This option consists of three proposals:
 - [Recommended] Proposal 2a: Increasing security of shellfish spat supply
 - [Recommended] Proposal 2b: Better enabling changes to marine farms when reconsenting
 - [Recommended] Proposal 2c: Minor and technical changes.

Proposal 2a: Increasing security of shellfish spat supply

53. Proposal 2a seeks to remove the NES-MA provision, which excludes ‘the addition of spat catching from a farm’ during the NES-MA reconsenting process.¹⁹ This is a recommendation from the Year Three Review.
54. Removing the restriction would enable marine farmers to more easily use existing production farms to also catch spat of their consented shellfish species. Increasing spat catching from existing marine farms could contribute to a more resilient supply of spat.²⁰
55. Removing the restriction would help provide a consistent approach across councils and regions. The removal would be straightforward to implement and would clarify the current regulatory environment.

Risks identified with this proposal

56. Enabling spat catching on a production farm would, in most cases, mean that new lines specific to spat catching could be added to the existing shellfish grow-out lines.²¹ Officials’ assessment is that changes in environmental conditions due to the additional lines²² in and around the farm would be limited.
57. Spat catching lines have less tension than grow-out lines, which could carry an increased risk of marine mammal entanglement. This was assessed as a low risk as since 1996, only one marine mammal death has been confirmed and another suspected entanglement has been recorded.²³ Existing matters of discretion appear to be managing this risk well through ensuring that farms have suitable protections against marine mammals and will apply to this proposal.²⁴
58. The transfer of spat from a spat catching farm to a production farm may also entail a biosecurity risk. Again, this risk will be managed through the existing matters of discretion, which will apply to this proposal.

¹⁹ Section 25 (2) (d)

²⁰ The industry currently largely relies on wild-caught spat, which has extremely low survival rates after being transferred to a marine farm. Increasing on-farm spat catching and on-growing can boost spat supply.

²¹ Shellfish grow out lines are ropes or structures where shellfish grow on before being harvested.

²² Environmental conditions could, for example, include hydrological conditions, which relate to the water quality and impact of the farming activity on the water.

²³ In 1996, a Bryde’s whale (*Balaenoptera edeni*) was entangled in spat catching lines near Great Barrier Island. Death of a second whale has been attributed to spat catching lines but this has not been confirmed.

²⁴ Matters of discretion include the information and monitoring requirements, management of biosecurity risks, and effects on navigational safety.

Feedback from engagement

59. During pre-engagement with stakeholders and some Treaty partner groups on the proposed NES-MA changes, stakeholders and Treaty partner groups generally supported this option. A key concern was around managing potential effects, such as environmental and biosecurity risks. These effects will be managed through the matters of discretion.
60. Stakeholders were also concerned that this proposal would not comprehensively solve the issue of short spat supply and that more spat nurseries are needed. Comprehensively solving spat supply is beyond the scope of the NES-MA changes. However, the research and trials proposal (Proposal 3b - Providing for research and trials on existing consents and in new space) will assist by providing a pathway to test areas for suitability for both spat catching and for use as nursery sites.

Proposal 2b: Better enabling changes to marine farms when reconsenting

61. This proposal seeks to give marine farmers greater flexibility to make on-farm changes regarding species and structures during reconsenting.²⁵ MPI and MfE propose two amendments as part of this proposal.
62. The first amendment will remove the restriction that only marine farms that obtained consents before the NES-MA came into force in 2020 can use the NES-MA regulations to make changes at reconsenting.²⁶ This change would enable all marine farms to use the NES-MA to change their on-farm structures and species at reconsenting.
63. The second amendment would enable marine farmers to make changes to the structures on their consent without having to change species at the same time. This change will enable marine farmers to more easily upgrade their structures to innovate, boost productivity, and reduce environmental effects, e.g. to use innovative 'FLUPSY' systems²⁷ or Shellfish Towers²⁸. This amendment would be modelled after current regulation regarding species and structures and would be a straightforward change.

Risks identified with this proposal

64. We have not identified any legal risks or impacts for Proposal 2b as we propose that both the matters of discretion and the notifications settings that councils use to manage decisions on aquaculture activities will mirror existing NES-MA settings.
65. On-farm changes may impact Māori customary access, rights, and interests. Examples might include a change to grid-layout structures from rows on mussel farms where Māori can currently navigate through to access culturally significant coastline and fishing spots. This can be mitigated and managed through existing matters of discretion, notification settings, and Schedule 6²⁹ in the NES-MA.

Feedback from targeted engagement

66. There has been strong support for this proposal from all stakeholders and those Treaty partner groups we engaged with, provided that the matters of discretion and notification settings do not undermine existing rights and interests. Most stakeholders

²⁵ The current provisions are set out under part 4 of the NES-MA (Replacement coastal permits for existing marine farms consented species).

²⁶ Section 25(1) in part 4.

²⁷ A FLUPSY or floating upwelling system is a small-scale structure designed to increase retention and survival of juvenile mussel and oyster spat which enables low maintenance and high efficiency oyster farming.

²⁸ Designed by Cawthron Institute and currently being trialled within NZ to enable sustainable open ocean shellfish farming.

²⁹ Schedule 6 lists the process for seeking views of tangata whenua on draft application.

raised that it will be important to ensure matters of discretion have sufficient scope to address risks, while also enabling a wide range of changes.

Proposal 2c: Minor and technical changes

67. The Year Three review identified several changes of a minor and technical nature, which we propose to make through this work programme. These changes comprise of wording and reference changes to clarify the intent and interpretation of the NES-MA. They do not change any policy.
68. Due to the minor and technical nature of these changes, they were not discussed during engagement and officials have not included an options analysis for this proposal. These changes will be included in formal consultation in 2025.

Option 3 – Making aquaculture consenting processes more proportionate to the effects of activities

69. The NES-MA are currently focused on reconsenting processes for existing aquaculture. Officials propose to expand the current scope to ensure that the intent and purpose of the NES-MA remain fit for purpose and encourage greater growth and innovation. This will be particularly useful in the context of the 20-year consent extension.
70. Processes set out in the NES-MA currently result in a reconsenting process that is often disproportionately lengthy for activities that do not have significant effects on the environment. The proposed options seek to constrain the matters of discretion or matters of control that councils can consider when making decisions on a new activity or change if the effects are limited.
71. This option consists of two proposals:
 - [Recommended] Proposal 3a: Amending the NES-MA to set out a more lenient activity status for certain changes to consent conditions
 - [Recommended] Proposal 3b: Amending the NES-MA to enable a new consenting pathway for research and trial activities on new and existing farms.

Proposal 3a: Amending the NES-MA to set out a more lenient activity status for certain changes in consent conditions

72. This option proposes to amend the NES-MA to make the process for certain applications for change in consent conditions more straightforward and certain by restricting council discretion in considering these applications. This will be done through specifying a controlled (which must be granted) activity status for some changes. Matters of control will also be restricted.
73. This change will provide greater certainty for marine farmers and make the process to change conditions more efficient. This change will also complement the 20-year consent extension by providing an improved pathway to change consent conditions during the term of the consent. Officials note that this proposal requires a change to the RMA,³⁰ which is being progressed through RM (COSC) A Bill.
74. Officials engaged on two complementary design options for this proposal:
 - [Recommended] Setting out a defined list of changes that can be progressed through a more lenient process. For example, to enable farmers to add spat catching to their farm during the term of the consent, which would further support the issues identified above.
 - [Not recommended] Setting out groupings of species/farming methods that have sufficiently similar effects and enabling a change to the farm (including structures

³⁰ To Section 127 of the RMA and the enabling provisions for National Environmental Standards.

or species) that is within the relevant 'group' to be considered under the more lenient process. Examples for the groupings include 'Floating subtidal line mussels and oysters' and 'Elevated intertidal Pacific oysters'.

Risks identified with this proposal

75. There is a risk that streamlining consenting processes could limit Māori input into decision-making.³¹ Officials propose to include appropriate matters of discretion in the NES-MA that include tangata whenua values, which will ensure these values are considered in decision-making.
76. There is also a risk that the rights provided for under Treaty settlements and other legislative arrangements would be limited by this proposal.³²
77. Notification requirements are being designed to enable Māori participation in decision-making through a pre-application tangata whenua process where possible, or through limited notification.
78. Some council practitioners raised concerns that a further bespoke aquaculture consenting process would add to the administrative burden for councils. While this change will create a specific process for aquaculture, we anticipate this will be straightforward as this option defines the activity status for a set number of changes. The development of guidance on the implementation process may also be useful to further clarify the process for councils and industry.

Feedback from targeted engagement

79. Stakeholders and those Treaty partner groups we engaged with were largely supportive of the proposal, noting that this would provide benefits to the industry and research providers, and support innovation. Stakeholders noted that matters of discretion would be key to ensuring impacts on other farms, Māori, and the environment were appropriately considered.
80. The grouping approach was preferred by some stakeholders, including research providers and some industry groups, as they felt this could provide more flexibility. However, industry groups noted that most of the proposed 'groupings' would not be needed if the defined list was designed well and included a wide range of changes. There was also concern from industry, councils, and those Treaty partner groups we engaged with that the grouping approach may be unclear and difficult to navigate.

Proposal 3b – Amending the NES-MA to enable new regulatory pathways, including as permitted activities, for research and trial activities on new and existing farms

81. Aquaculture research and trial activities can support the aquaculture sector to innovate and adapt to future challenges. Officials propose that the NES-MA be amended to set out a streamlined consenting process for research and trial activities. We propose that this process be used for research and trial activities both within existing consented space and in new space.
82. This streamlined process will be achieved by limiting the matters councils can consider in deciding on applications. This is done by setting activities as controlled (which must be granted) or restricted discretionary (where only specified matters can be considered).

³¹ For example, where activities are 'controlled' and cannot be declined, or where there are streamlined notification processes and reduced matters for discretion.

³² Such as the influence that PSGEs can have on consent decision-making in their area of interest, as provided by their statutory acknowledgement.

83. The scale of the research or trial activity (for example, size of area, duration) and the level of risk will determine the specific matters councils can consider and whether they are given controlled or restricted discretionary status.

Some small-scale trial activities are proposed to no longer require consent

84. Certain small-scale trials of structures (with no livestock involved) are proposed to be made permitted activities and so will not require a resource consent.³³ This is a new use for the NES-MA and limitations on the proposed activities would be included in the NES-MA. The proposed permitted activities are small-scale, time limited, and have been assessed as low risk to the environment,
85. These activities will not be able to take place in areas where the equivalent activity under a regional coastal plan is prohibited.

Risks identified with this proposal

86. Using the NES-MA to provide for research and trials in new space would broaden the original application of the NES-MA. However, this new use fits within the scope of what a National Environmental Standard can set and is consistent with the underlying objectives of the NES-MA to provide for more regulatory certainty and consistency while ensuring existing marine farms meet best environmental practice.
87. There is a risk that controlled activities in new space could lead to decreased tangata whenua involvement in decision making as an application process will have a pre-determined outcome. Mechanisms provided by Treaty settlements and other arrangements that link to engagement in consenting processes will therefore be limited, if controlled.³⁴
88. To address this risk, we will seek feedback from Māori groups on the proposals through formal consultation. Another way to address the risk is by setting matters of control, which will ensure tangata whenua retain the ability to influence conditions.
89. New space used for research and trials will trigger aquaculture settlement obligations,³⁵ except for structure-only trials (as these are not considered aquaculture activities). Relevant customary marine title and protected customary rights will apply in new space.³⁶
90. We expect that any settlement obligations to be negligible due to the small-scale nature of the proposed research and trial activities. Further engagement is needed to understand the full impact of the proposals on settlements and other arrangements. Requirements regarding notification and permission rights are consistent with existing requirements under the RMA.
91. Consenting of new space will also require an undue adverse effects test to identify effects on fishing.³⁷ Potential adverse effects on fishing are presumed to be minor due to the small-scale nature of the proposed research and trial activities.

³³ These would be considered as permitted activities, as long as they comply with specified requirements set out in the NES-MA. In order to do this the trial cannot meet the definition of aquaculture activities i.e. no farming of stock can be involved.

³⁴ Such as the RMA permission right provided for under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 or relevant Treaty settlement statutory acknowledgments.

³⁶ Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019

³⁷ As required under the Fisheries Act 1996, to assess the effects of proposed marine farms on fisheries.

Additional risks have been identified for permitted activities

92. Permitted activities in new space would not require an application process and could therefore lead to decreased tangata whenua involvement in decision making. Mechanisms provided by Treaty settlements and other arrangements that link to engagement in consenting processes will be circumvented if the activity becomes permitted.³⁸
93. To address this risk, we will seek feedback from Māori groups on the proposals through formal consultation.
94. There is also a risk that permitted activities may go ahead in areas that may not be suitable (for instance in cases where councils have not done the planning needed to determine where structures should be prohibited). We will ensure entry requirements are designed to mitigate this risk.

Feedback from targeted engagement

95. The aquaculture industry and research providers we engaged with have indicated that easier consenting for research and trials would better enable innovation, leading to improved industry growth and development.
96. There are a number of Māori groups that are broadly interested in research and trials on both existing and new marine farms. Making consenting easier could possibly enable more Māori groups to develop aquaculture space.
97. Some regional councils involved in early engagement on this issue have agreed that challenges do exist for research providers in obtaining consents for research and trials, particularly where plans were outdated. Other regional councils indicated that existing mechanisms such as current s127 (change of consent condition applications) adequately enable research and trials on existing farms.

Options considered but not progressed

Proposal to standardise consent conditions

98. MPI and MfE engaged on a proposal to introduce nationally standardised consent conditions for certain matters, for example, on navigational or environmental conditions. The intention was to create operational efficiencies for the industry and lift best practice across the sector.
99. Stakeholders and those Treaty partner groups we engaged with were not supportive of the proposal. Key concerns included that this would be inflexible and not enable consideration of regional differences, different farming approaches, and cultural variations between different iwi and their rohe. Stakeholders also preferred that best practice be industry-led.³⁹
100. It would also be challenging to design and implement standardised conditions. To include these on existing consents, councils would need to review all consents and update the condition. This would be costly, inefficient, and administratively burdensome for council and industry.
101. As there was limited support and there are implementation risks, we are not currently progressing this proposal. There are existing opportunities for councils to review and update consent conditions that are out of date.

³⁸ Such as the RMA permission right provided for under the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 or relevant Treaty settlement statutory acknowledgments.

³⁹ For example, through AQNZ's A+ framework.

102. Feedback from the targeted engagement sessions suggested that non-regulatory options would be better placed to address this proposal. We are exploring the development of guidance to support consistency of consent conditions, which can be progressed without a regulatory change.
103. We have not included an options analysis for this proposal.

How do the options compare to the status quo/counterfactual?

| | | Option 1 / Status quo | Option 2: Addressing known issues in the NES-MA | | Option 3: Making aquaculture consenting processes more proportionate to the effects of activities | | | Option 2 and 3 combined |
|--|--|-----------------------------|---|--|--|--|---|-------------------------------|
| | | | Proposal 2a: Increasing security of shellfish spat supply | Proposal 2b: Better enabling changes to marine farms when reconsenting | Proposal 3a: Making it easier to change consent conditions during the term of a consent | | Proposal 3b: Better enabling research and trials ⁴⁰ | |
| | | | | | Defined list of changes | Grouping of species/farming methods | | |
| Effectiveness: | Does the option achieve the objectives? | 0 | + | + | + | + | ++ | ++ |
| | Does it provide a solution to the identified problem? | 0 | + | + | + | + | + | + |
| Efficiency: | Is the option the best way to achieve the objectives? | 0 | + | + | + | - | + | + |
| | Is it providing enough flexibility to allow local circumstances to be adequately taken into account? | 0 | 0 | ++ | + | - | ++ | ++ |
| | Is it cost-effective? | 0 | ++ | ++ | + | + | ++ | ++ |
| Alignment: Does the option integrate well with other proposals and the wider statutory framework? | | 0 | + | + | + | + | + | + |
| Implementation: Is the option clear about what is required for implementation by local government/others and easily implemented? | | 0 | + | + | + | - | + | + |
| Treaty of Waitangi: Whether it is consistent or gives effects to Treaty settlements and te Tiriti principles | | 0 | 0 | 0 | 0 | 0 | - | 0 |
| Overall assessment | | 0 | + | + | + | - | ++ | ++ |

⁴⁰ The options analysis for both amendments for the research and trials option indicated the same outcome, therefore, their analysis has been combined.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

104. Agencies recommend that both Options 2 and 3 are progressed to consultation.
105. Progressing Options 2 and 3 together will provide marine farmers with more enabling, efficient, and cost-effective processes to obtain and update consents and undertake some limited permitted activities without requiring a consent.
106. On its own, Option 2's effectiveness and impact may be limited over the duration of the 20-year consent extension, when reconsenting may be less likely to take place. This is because Option 2 does not address challenges that have been identified outside of the reconsenting process.
107. On its own, Option 3 would streamline consenting pathways for certain activities but not address issues identified with the reconsenting process. This process may still be used, albeit infrequently.
108. Combining both options would address the issues identified both during the term of consents and at reconsenting. Delivering both options will best meet the policy objectives as together they will enable the aquaculture industry to grow and develop while safeguarding the environment. They also improve the regulatory quality in the resource management system by ensuring the NES-MA remain fit for purpose. Treaty of Waitangi settlements and related arrangements will mostly be upheld.
109. Options 2 and 3 combined will greatly increase flexibility when compared to status quo. These options will enable councils to tailor for local conditions through matters of discretion and provide sufficient flexibility for industry to make changes to adapt to the environment and encourage growth, including through some limited permitted activities.

Progressing Option 2 will ensure that the NES-MA work as intended and are clear and easy to use

110. The changes proposed in Option 2 are within the current scope and focus on improving reconsenting processes. This option will ensure the NES-MA continue working as intended and remove unnecessary restrictions within existing aquaculture reconsenting processes.
111. There are some risks with this option, such as a potentially increased biosecurity and marine mammal entanglement risk in Proposal 2a (*Increasing security of shellfish spat supply*). Officials consider these risks to be minor and manageable through appropriate matters of discretion in the NES-MA.

Option 3 will ensure that the NES-MA continue to stay fit for purpose within the current context and into the future

112. This option will expand the current application of the NES-MA to include new uses by proposing:
 - Streamlined processes to change consent conditions outside reconsenting; and
 - Consenting aquaculture research and trial activities, including in new spaces and by establishing some limited permitted activities.
113. Proposal 3a (*Making it easier to change consent conditions during the term of a consent*) will progress the defined list of changes that can be considered more leniently to consultation, but not the grouping approach. Based on engagement feedback and analysis, this will be more effective in resolving the issue. This approach is more targeted, so more activities can be set as controlled activities (which must be granted) while managing risks effectively, compared to the broader grouping approach.

- This will provide greater clarity and certainty for stakeholders. If the list is designed well, it would cover most of the anticipated changes in the grouping designs.
114. Key risks for this proposal are that it will limit tangata whenua input into decision making and might present an administrative burden to councils as it is a bespoke process for aquaculture. These risks can be addressed by including appropriate matters of control in the NES-MA that include tangata whenua values and provide implementation guidance.
 115. It will also be important that the associated amendment to this proposal in RM (COSC) A Bill is passed before, or alongside the National Direction package, to enable the full benefits of this option. This is a manageable risk as MfE is managing the coordination of the Bill and National Direction package and is aware of the linkages.
 116. Proposal 3b (*Better enabling research and trials*) presents several risks, including that it broadens the use of the NES-MA beyond the current application. However, this new use fits within the scope of what a National Environmental Standard can set and is consistent with the underlying aim of the NES-MA to increase efficiency in the regulatory environment for aquaculture.
 117. Enabling the use of new space for research and trials, particularly for permitted (no consent required) and controlled (must be granted) activities, carries a risk of decreased input by tangata whenua into decisions.
 118. New space will also trigger settlement obligations and might have adverse effects on fishing. However, due to the small-scale of these activities, we believe the impact will be negligible.
 119. Both Proposal 3a and 3b will complement the extension of marine consents, meaning that consent holders can enjoy the certainty of a long-term consent while still having the flexibility to make changes on-farm to respond to innovations and/or change in environmental conditions, for example through climate change. The aquaculture sector will also be able to get a consent more easily for research and trial activities, particularly if they are small-scale and short-term. This will help New Zealand remain a viable location for innovation and support research that will help boost the aquaculture sector and improve environmental management.
 120. These options will continue to be refined, particularly details around matters of discretion. Treaty partners and stakeholders will be able to provide further feedback during consultation in 2025 ahead of proposals being finalised.
 121. While engagement feedback was limited, stakeholders and those Treaty partner groups that participated in targeted engagement broadly supported all options, including where there are new uses of the NES-MA, such as for research and trial activities in new space. MPI and MfE have carefully considered feedback from the engagement and believe most concerns have been addressed.
 122. Officials consider that maintaining the status quo would retain current drafting issues with the NES-MA, and hinder necessary changes to marine farms, innovation and longer-term growth.

Is the Ministers' preferred options in the Cabinet paper the same as the agencies' preferred options in the RIS?

123. The Ministers' preferred option in the Cabinet paper is the same as the agencies' preferred option in the RIS.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

| Affected groups (identify) | Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i> | Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i> | Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i> |
|--|---|--|--|
| Additional costs of the preferred option compared to taking no action | | | |
| Regulated groups | No additional costs | Low | High |
| Regulators | Initial administrative costs due to the implementation of the proposal. These costs relate to the set-up costs, such as when needing to consider the implementation of Proposal 3b. Limited direct ongoing costs as the options in the proposal are designed to be straightforward. | Low/Medium Option 2 will not require as much implementation costs when compared to Option 3 because Option 2 uses existing systems while Option 3, especially Proposal 3b (Better enabling research and trials) will require some thinking on its implementation. | High certainty due to the need for the regulators to implement the proposal. |
| Government | One off cost for wider government for implementation, including the development of guidance for the regulated groups and / or regulators. | Low | High |
| Tangata Whenua | Potentially ongoing costs that may be unanticipated as some changes may impact Māori customary | Medium | Medium. High certainty on the effects of the proposals however, there is a |

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|---|---|--|---|
| | access, rights, and interests. The streamlining of consenting applications may also limit their input. New development may also have unforeseen consequences. Limited indirect cost may include the impact of aquaculture activities on the environment. | | degree of uncertainty around the frequency that these proposals will be used. |
| Public | Limited indirect ongoing cost. There may be less opportunities for participation in the application process. This may also result in other costs such as higher environmental impacts. | Low – consent holder applications to change consents under specific circumstances, which reduces the risk and intensity of the impact. | Low |
| Research organisations | No additional costs | Not applicable | Low |
| Total monetised costs | Not available - difficult to quantify | Not available | Not available |
| Non-monetised costs | Medium costs | Low to medium | Low |
| Additional benefits of the preferred option compared to taking no action | | | |
| Regulated groups | Direct ongoing benefits due to the reduced regulatory burden on industry. Further benefits include aquaculture sector growth and economic development due to greater | Medium | Medium certainty due to qualitative feedback from industry. |

| | | | |
|------------------|--|-----|---|
| | certainty during the consenting applications, and increased ease in conducting research and trial activities, translating to increased efficiencies and a better ability to adapt to changing conditions. | | |
| Regulators | <p>Ongoing benefits as this could reduce administrative burden in regulating these consents.</p> <p>As Option 3 sets out the prescribed process for specified changes and activities, the regulators would have an easier time in determining the outcome of those applications.</p> | Low | Low |
| Wider government | | Low | <p>Medium. Change proposals have arisen from a review of the effectiveness of NES-MA including stakeholder engagement in 2023. A wider review of the NES-MA is planned for 2028 and will provide feedback if the proposals have achieved their desired outcome or if further changes are needed to improve the workability of the NES-MA.</p> |

| | | | |
|---------------------------------|---|---------------|---------------|
| Tangata Whenua | Ongoing benefit, as these changes will benefit Māori aquaculture participants including streamlined processes to change consent conditions and conduct research activity. As it becomes easier to trial aquaculture activities without an existing farm, they can have some degree of certainty on its success before commercialising their operations. This should facilitate Māori participation. | Medium | Low |
| Public | Limited direct benefit as the proposal may bring public benefits, including improved environmental effects management, climate change adaptation, economic growth. | Low | Low |
| Research organisations | Limited direct benefit but there are ongoing wider benefits as Proposal 3b enables research organisations to conduct research activities more easily in terms of certainty or application and the time taken to apply. | Medium | Low |
| Total monetised benefits | Difficult to quantify | Not available | Not available |

| | | | |
|-------------------------------|---|-----|-----|
| Non-monetised benefits | Limited direct benefits, with wider ongoing benefits from increased certainty when consenting or reconsenting for certain activities, and the reduction in costs and time taken to apply. This could also lead to better environmental management due to the ease to make changes to the farms. | Low | Low |
|-------------------------------|---|-----|-----|

Section 3: Delivering an option

How will the proposal be implemented?

124. If progressed, all proposed changes to the NES-MA will have immediate effect. Councils will be responsible for processing and administering applications submitted using NES-MA regulations.
125. Rules in National Environmental Standards prevail over rules in plans. This means that while councils are required by the RMA to align plans with National Environmental Standards, this alignment does not affect the interpretation of the law and effectiveness of the proposals. Further changes to the RM system are planned, which could cause challenges for councils if they were required to make plan changes in the near term as a result of the proposed changes. As no plan changes are required, the implementation burden faced by councils is expected to reduce.
126. It is anticipated that most of the changes will be straightforward to implement as Councils already have systems to assess applications under the NES-MA. Only minor changes to the assessment criteria will be needed to implement the changes, particularly for proposals 2b (Better enabling changes to marine farms when re consenting) and 3b (Amending the NES-MA to enable new regulatory pathways, including as permitted activities, for research and trial activities on new and existing farms).
127. Further guidance to aid in the implementation will be developed if stakeholders indicate that it is necessary during consultation.

How will the proposal be monitored, evaluated, and reviewed?

128. The NES-MA are scheduled to be reviewed in 2028 to evaluate their effectiveness. The impact of the proposed changes to the NES-MA enabled by this proposal will be considered in this review, including which consent condition changes are taking place under a more lenient process, and what the impacts are on stakeholders, Treaty partners, and the environment.