

Ahumoana: Te neke ki te pūnaha hou

Aquaculture: Moving to the new system

New laws are being phased in that aim to help Aotearoa New Zealand protect and manage the environment and its resources. The Spatial Planning Act 2023 (SPA) and the Natural and Built Environment Act 2023 (NBEA) were enacted on 23 August 2023.¹

Many aquaculture provisions in the Resource Management Act 1991 (RMA) will continue to apply until each region's NBEA date (see below) and some will continue to apply after that. These include associated processes in the Māori Commercial Aquaculture Claims Settlement Act 2004 (Settlement Act) and Fisheries Act 1996.

For information about changes that come into effect immediately, see the factsheet [Aquaculture management](#).

This fact sheet covers:

- NBEA date
- authorisations issued under the RMA and Settlement Act
- power to suspend applications for coastal permits
- aquaculture coastal permit decisions
- application of Part 7A, subpart 4 of the RMA

¹ The Climate Adaptation Act is also planned, which will address managed retreat, and funding and financing of climate adaptation. A date for introduction of the Bill is not yet confirmed.

- aquaculture regulation-making powers under the RMA
- coastal occupation charges
- National Environmental Standards for Marine Aquaculture (NES-MA).

NBEA date

A region's NBEA date is the date the region's natural and built environment plan (NBE plan) becomes operative. This is 10 working days after a regional planning committee (RPC) notifies the decisions version of its first NBE plan. Each region's NBEA date will be different.

Authorisations issued under the RMA and Settlement Act

Authorisations under the RMA are exclusive rights to apply for a coastal permit to occupy space in the coastal marine area. Regional councils issue these authorisations under Part 7A of the RMA.

If an authorisation is still valid at a region's NBEA date it can be used to apply for a coastal permit under the relevant rules in the NBE plan.² RMA Part 7A authorisations are usually issued for two years and lapse at the end of that period.

Authorisations under the Settlement Act are for aquaculture settlement areas and are issued by regional councils at the direction of the Minister for Oceans and Fisheries. Authorisations issued under the Settlement Act before a region's NBEA date can also be used to apply for a coastal permit under the relevant rules in the NBE plan.³

Power to suspend coastal permit applications⁴

The Minister of Aquaculture's power to suspend coastal permit applications for aquaculture under Part 7A of the RMA will continue to apply up until a region's NBEA date.

Any notice to suspend an application in place before a region's NBEA date will continue to have effect after that date. It will be treated as if it were a notice issued under sections 469 or 472 of the NBA. The Minister can extend the expiry of a notice issued under Part 7A of the RMA by using section 473 of the NBA.

If a regional council requests the Minister of Aquaculture to suspend an application under Part 7A of the RMA before a region's NBEA date, the request will continue to have effect after that date. It will be treated as if it were a request under section 468 of the NBA.

² Schedule 1, clause 77 of the NBA.

³ Schedule 1, clause 82 of the NBA.

⁴ Schedule 1, clause 78 of the NBA.

Aquaculture coastal permit decisions⁵

If an application for a coastal permit for aquaculture has been made under the RMA (but not yet decided), the relevant aquaculture decision processes under the Fisheries Act 1996 still apply after the region's NBEA date.

These provisions apply up until the aquaculture decision is made and any judicial review proceedings under section 186J of the Fisheries Act are completed.

Application of Part 7A, subpart 4 of the RMA⁶

Part 7A, subpart 4 of the RMA deals with plan change requests and concurrent applications for coastal permits for aquaculture activities.

These provisions continue to apply in a region up until the region's NBEA date. Equivalent provisions don't exist within the NBA.

Aquaculture regulation-making powers under the RMA⁷

The Minister of Aquaculture's power to recommend regulations to amend the aquaculture provisions of regional coastal plans is under sections 360A–360C of the RMA.

These provisions can continue to be used up until the region's NBEA date. Equivalent provisions in sections 793–795 of the NBA can be used after the NBEA date.

Coastal occupation charges⁸

When drafting the NBE plan, the RPC must consider whether to include coastal occupation charges that apply to people occupying any part of the common marine and coastal area. These charges could apply to marine farms and other activities in that area.

Any coastal occupation charging regime in place in a regional coastal plan under the RMA will continue until the region's NBEA date.

National environmental standards for marine aquaculture

The National Environmental Standards for Marine Aquaculture (NES-MA) (which provide consistent regulations to manage existing marine farms around Aotearoa) will be transitioned into the first national planning framework (NPF).

⁵ Schedule 1, clause 81 of the NBA.

⁶ Schedule 1, clause 79 of the NBA.

⁷ Schedule 1, clause 80 of the NBA.

⁸ Section 182 of the NBA.

The NPF provides central government direction for the development of regional spatial strategies (RSS) and NBE plans. It draws together national direction prepared under the RMA and provides direction on other matters in the new system.

Targeted consultation for the first NPF will commence in late 2023, and a Board of Inquiry is scheduled to consider the first NPF in April 2024.

Disclaimer

The information in this publication is, according to the Ministry for the Environment's best efforts, accurate at the time of publication. The Ministry will make every reasonable effort to keep it current and accurate. However, users of this publication are advised that:

- The information provided has no official status and so does not alter the laws of New Zealand, other official guidelines or requirements.
- It does not constitute legal advice, and users should take specific advice from qualified professionals before taking any action as a result of information obtained from this publication.
- The Ministry for the Environment does not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading, or reliance placed on this publication because of having read any part, or all, of the information in this publication or for any error, or inadequacy, deficiency, flaw in or omission from the information provided in this publication.
- All references to websites, organisations or people not within the Ministry for the Environment are provided for convenience only and should not be taken as endorsement of those websites or information contained in those websites nor of organisations or people referred to.

