



Attachment 2.1

Proposed provisions – Amendments to the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020

National direction consultation – Package 2: Primary sector

Instrument topic: Proposed amendments to the National Environmental Standards for Marine Aquaculture (NES-MA)

- The proposed provisions are for consultation purposes and do not represent the proposed National Environmental Standards (NES) wording, which will be drafted after the consultation phase.
- The table below provides some illustrative wording (some shown as strikethrough and underlined) to help you understand the intent of the proposed amendments to the NES-MA.
- Changes to existing NES-MA provisions are referenced using existing clause numbers. The numbering convention for proposed new additions to the NES-MA is included to help submitters recognise proposed provisions and uses the convention 'R' for a rule followed by the rule number.

| PART 1: PRELIMINARY PROVISIONS | | |
|--|---|--|
| Regulation | Proposed provisions | Reasons |
| Regulation 3 – Area of interest definition | Amend the definition to clarify that it is the “best-practice criteria for ecologically significant effect” that must be endorsed by the regional council, not the scientific report. | This amendment is needed to clarify how the current definition of ‘area of interest’ applies. The current definition implies that the report must be endorsed by the regional council, but the intent is that the “best-practice criteria for ecologically significant effect” must be endorsed by the regional council. |
| Regulation 11 – Application of regulations | Amend regulation 11 so that: <ul style="list-style-type: none"> the NES-MA also applies to certain applications to change or cancel consent conditions, and certain applications for research and trials; and the areas the NES-MA does not apply to (specified in regulation 11(2)) only relate to applications for replacement coastal permits under Parts 2, 3, and 4 of the NES-MA. | This amendment is needed to reflect the change in application of the NES-MA from just replacement of coastal permit applications to also cover applications to change or cancel consent conditions, and applications for research and trial activities. |
| PART 3: REPLACEMENT COASTAL PERMITS IN RESPECT OF EXISTING MARINE FARMS WITH NO CHANGE IN CONSENTED SPECIES | | |
| Regulation | Proposed provisions | Reasons |
| Regulation 18(d)(i) – Matters over which discretion is restricted for replacement coastal permits under this Part and Part 4 reg 36 | Amend the matters of discretion listed in regulation 18 to ensure consent authorities have discretion to consider effects on Māori access to coastal areas of cultural significance with regard to the layout, colour, positioning, density, lighting, and marking of marine farm structures within a marine farm. | This amendment is intended to better ensure consideration of the effects on Māori access to coastal areas of cultural significance within the vicinity of marine farms in decisions on replacement coastal permits for marine farms. |
| Regulation 22 – Additional matters over which discretion is restricted for realignment of marine farms | Amend regulation 22 to remove any reference to regulation 19. | This amendment is needed to remove an unnecessary reference identified in the Year Three Review of the NES-MA. ¹ This clause prescribes additional matters of discretion for applications for marine farm realignment, and it refers to regulation 19, which sets out additional matters for fed aquaculture. This cross reference is not necessary because fed aquaculture farms cannot access the realignment provisions of the NES-MA. |

¹ Fisheries New Zealand. 2023. *Report on the Year Three Review of the National Environmental Standards for Marine Aquaculture*. Fisheries New Zealand Technical Paper No: 2023/02. Prepared for the Minister for the Environment and the Minister for Oceans and Fisheries by Fisheries New Zealand. Wellington: Fisheries New Zealand.

PART 3: REPLACEMENT COASTAL PERMITS IN RESPECT OF EXISTING MARINE FARMS WITH NO CHANGE IN CONSENTED SPECIES

| Regulation | Proposed provisions | Reasons |
|-------------------------------------|---|---|
| Regulation 24 – Notification | <p>Amend regulation 24 to provide clearer guidance on how the application of public and limited notification preclusions apply to regulation 14. An example of how this could be worded is:</p> <ol style="list-style-type: none"> 1) Applications under regulation 14 must not be publicly notified. 2) Limited notification of applications under regulation 14 is not precluded if— <ul style="list-style-type: none"> the applicant has not undertaken the process outlined in Schedule 6 within the previous 12 months; or the application does not include the report required by clause 5 of that schedule. | <p>This amendment intends to provide clarity around notification requirements and improve how the policy intent is articulated. It responds to an issue identified in the Year Three Review of the NES-MA. This change will not affect who is notified.</p> |

PART 4: REPLACEMENT COASTAL PERMITS FOR EXISTING MARINE FARMS TO CHANGE CONSENTED SPECIES

| Regulation | Proposed provisions | Reasons |
|--|---|--|
| Regulation 25 – Application of this Part | Amend the provision so that Part 4 also applies to marine farms that obtained a coastal permit after the date on which the NES-MA came into force. | <p>This amendment is needed to enable marine farms to obtain replacement consents and make changes to their consents through the NES-MA, regardless of the date they were originally consented.</p> <p>Currently, only marine farms consented before the introduction of the NES-MA can use Part 4 regulations. Regulation 25(2) is proposed to continue to apply.</p> |
| | Amend regulation 25 to ensure that Part 4 applies if applicants seek to add spat catching to a marine farm when applying for a replacement consent. | <p>This amendment intends to enable existing marine farmers to add spat catching to their consent when seeking a replacement consent.</p> <p>This will provide increased opportunities for marine farmers to catch spat, which is in short supply, while allowing potential environmental effects to be managed.</p> |
| Regulation 29 – Change in consented species and changes to certain subsurface structures: restricted discretionary activity | Amend regulation 29 to make a replacement consent with altered subsurface structures and no changes to species a restricted discretionary activity. | <p>This amendment enables a change to certain subsurface structures without having to also change species. This resolves an issue identified in the Year Three Review of the NES-MA, where marine farmers identified that they were required by the regulations to add a species in order to change to more innovative structures on their marine farm.</p> |

PART 4: REPLACEMENT COASTAL PERMITS FOR EXISTING MARINE FARMS TO CHANGE CONSENTED SPECIES

| Regulation | Proposed provisions | Reasons |
|--|---|--|
| Regulation 30 – Matters over which discretion is restricted for replacement coastal permits under regulation 29 | Amend regulation 30 to restrict the matters over which discretion is limited for applications for replacement consents that only adjust subsurface structures to those specified in regulation 18 and hydrodynamic effects. | This amendment is needed to remove two matters of discretion that are not relevant for a change to structures. The two matters to be disapplied relate to effects of changes of species that do not need to be considered if the change sought is to structures. |
| Regulation 32 – Change in consented species with changes to surface and subsurface structures: restricted discretionary activity | Include a provision for a replacement consent for altered surface and subsurface structures with no changes to species to be a restricted discretionary activity. | This amendment will allow changes to surface and subsurface structures to be made without requiring a change in species. See regulation 29 for further detail. |
| Regulations 33, 36, 39 – Matters over which discretion is restricted for replacement coastal permits under regulations 32, 35, and 38 (respectively) | Amend regulations 33, 36, and 39 to ensure consent authorities have discretion to consider the effects on Māori access to coastal areas of cultural significance with regard to the layout, colour, positioning, density, lighting, and marking of marine farm structures within a marine farm when considering applications for replacement coastal permits. | This amendment is intended to ensure decision-makers consider the effects on Māori access to coastal areas of cultural significance within the vicinity of marine farms when making decisions on replacement coastal permits for marine farms. |
| Regulation 35 – Change in consented species with changes to surface and subsurface structures that involve realignment: restricted discretionary activity | Amend regulation 35 to make a replacement consent involving realignment that includes altered surface and subsurface structures with no changes to a species a restricted discretionary activity. | This amendment will allow changes to surface and subsurface structures involving realignment to be made without requiring a change in species. See regulation 29 for further detail. |
| Regulation 44 – Notification | Amend regulation 44 to provide clearer guidance on how the application of public and limited notification provisions apply to the cross-referenced regulations 26 and 29. An example of how this could be worded is: <ol style="list-style-type: none"> 1) Applications under regulations 26 and 29 must not be publicly notified. 2) Limited notification of applications under regulations 26 and 29 is not precluded if— <ol style="list-style-type: none"> a) the applicant has not undertaken the process outlined in Schedule 6 within the previous 12 months; or b) the application does not include the report required by clause 5 of that schedule. | This amendment intends to provide clarity around notification requirements and improve how the policy intent is articulated. It responds to an issue identified in the Year Three Review of the NES-MA. This change will not affect who is notified. |

SCHEDULES

Schedule 6: Process for seeking views of tangata whenua on draft application

| Regulation | Proposed provisions | Reasons |
|---|--|---|
| Regulation 1, 2, 4, and 5 – Interpretation, information to be provided to regional council, written information to be provided by regional council, and applicant's report to regional council | Amend Schedule 6 so that the process for seeking views of tangata whenua on draft applications also applies to a person applying for a change or cancellation of consent conditions or research and trials under relevant new regulations. | <p>This amendment is needed to enable the Schedule 6 process for seeking views of tangata whenua on draft applications to be used by those applying for a change of consent conditions or research and trials under the proposed regulations.</p> <p>The research and trials proposal will make rules about new coastal permits, rather than replacement coastal permits. The proposed change of consent conditions enables changes to existing permits (without requiring replacement coastal permit applications). Because Schedule 6 specifically references replacement coastal permits, it needs to be broadened to encompass applications for activities under these new regulations.</p> <p>Schedule 6 will continue to also apply to replacement coastal permit applications.</p> |
| Regulation 4 – Informing of intention to make application | Amend clause 4(b) to refer to a 'draft application' rather than 'proposed application'. | This amendment is needed to align the language of the clause (which refers to 'proposed application') with the rest of the NES-MA (which refers to a 'draft application'). The intent is the same. |

PROPOSALS FOR NEW REGULATIONS

New Part – Provisions for research and trials in existing space

| Regulation | Proposed provisions | Reasons |
|--|--|---|
| R1 – Application of regulations | <p>The NES-MA currently only applies to replacement consents. We are proposing to add new provisions that apply to new applications for consents for research and trials meeting the below requirements.</p> <p>Add a clause that specifies that this/these new part(s) on research and trials apply only to new applications for consents for research and trials within:</p> <ol style="list-style-type: none"> 1) an existing marine farm that already has a consent; and 2) new space. | This amendment is needed to enable the NES-MA to be used to specify rules for research and trials and make approval processes more proportionate to the effects of activities across New Zealand. |

PROPOSALS FOR NEW REGULATIONS

Research and trials only involving structures and equipment

| Regulation | Proposed provisions | Reasons |
|--|--|--|
| R2 – Research and trial activities on existing marine farms that involve only structures and equipment for a maximum of 12 months and under 20 m²: permitted activity | <p>Add a clause that makes establishing structures or equipment for research and trials within the consented area of an existing marine farm a permitted activity.</p> <p>Proposed permitted activity conditions will include:</p> <ul style="list-style-type: none"> • Must be within the consented area of an existing marine farm. • The application must either be from the holder of the existing consent for the marine farm or have written permission from the existing consent holder. • The application is for an activity that is solely for research and trial purposes. • The application must not be for an aquaculture activity. • The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed 20 m². • The maximum height of any surface structures associated with the activity shall not exceed 2.5 m. • The activity is for a maximum period of 12 months. • The same activity cannot have occurred within the same location within the last 6 months. • Must notify the regional council, Harbour Master, and tangata whenua prior to undertaking the activity (in writing with the actual position of the structures/equipment and any associated mooring and anchorage systems that have been deployed). • Structures/equipment and associated mooring and anchorage systems deployed shall be maintained in good structural condition and in an effective capacity at all times. • The structures/equipment is not located in a position that: | <p>This change will enable small-scale research and trials for structures and equipment to be undertaken as a permitted activity in areas that already have a consent for aquaculture.</p> |

PROPOSALS FOR NEW REGULATIONS

Research and trials only involving structures and equipment

| Regulation | Proposed provisions | Reasons |
|--|--|---|
| | <ul style="list-style-type: none"> – Is within a structure exclusion area identified in the regional coastal plan or on an existing resource consent; – Would obstruct access by water to any wharf, landing place, boat ramp, slipway, navigational channel, or mooring; – Will restrict navigation (unless subject to relevant exemption by a regional council); – Cause or have potential to cause, loss of life or injury to any person; or – Cause damage to any vessel or property. • Structures/equipment and any associated mooring and anchorage systems shall be marked as required by the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) System 'A' Maritime Buoyage System. | |
| R3 – Research and trial activities that involve only structures and equipment for a maximum of 3 years and under 2 ha: <i>controlled activity</i> | <p>Add a new clause that makes establishing structures or equipment for research and trials within the consented area of an existing marine farm a controlled activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> <ul style="list-style-type: none"> • Must be within the consented area of an existing marine farm. • Must either be holder of existing consent for the marine farm or have written permission of existing consent holder. • The application is for an activity that is solely for research and trial purposes. • The application must not be for an aquaculture activity. • The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed 2 ha. • The maximum height of any surface structures associated with the activity shall not exceed: <ul style="list-style-type: none"> – 2.5 m; or | <p>This change will enable research and trials for structures to be more easily consented in areas that already have a consent for aquaculture. Note that clause R2 for a permitted activity is for a smaller area and for a shorter period of time than this clause.</p> |

PROPOSALS FOR NEW REGULATIONS

Research and trials only involving structures and equipment

| Regulation | Proposed provisions | Reasons |
|---|---|---|
| | <ul style="list-style-type: none"> – 5 m if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). • The activity is for a maximum period of 3 years, but no longer than the term remaining on the consent for the existing marine farm. • The proposed lapse period for the resource consent is 6 months after the date of commencement. • The same activity cannot have occurred within the same location within the last 6 months. • The structures/equipment is not located within a structure exclusion area identified in the regional coastal plan or on an existing resource consent. | |
| R4 – Matters of control | Introduce a new clause for matters of control applying to R3. The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1. | This amendment will set out matters of control for research and trial consent applications under regulation R3. Matters of control were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed. |
| R5 – Views of tangata whenua on draft applications | <p>Introduce a new clause as follows:</p> <p>If the application under R3 does not meet the following requirements:</p> <ul style="list-style-type: none"> • the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and • the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R4:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving aquaculture activities (excluding fed aquaculture)

| Regulation | Proposed provisions | Reasons |
|--|---|---|
| R6 – Research and trial activities that involve aquaculture activities for up to 7 years and under 4 ha (excluding fed aquaculture): <i>controlled activity</i> | <p>Add a new clause that makes establishing research and trial activities that involve aquaculture activities (excluding fed aquaculture) within the consented area of an existing marine farm a controlled activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> <ul style="list-style-type: none"> • Must be within the consented area of an existing marine farm. • Research and trial activity must not involve fed aquaculture. • Must either be holder of existing consent for the marine farm or have written permission of existing consent holder. • The application is for an activity that is solely for research and trial purposes. • The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed 4 ha. • The maximum height of any surface structures associated with the activity shall not exceed: <ul style="list-style-type: none"> – 2.5 m; or – 5 m if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). • The structures are not located within a structure exclusion area identified in the regional coastal plan or on an existing resource consent. • The activity is for a maximum period of 7 years, but no longer than the term remaining on the consent for the existing marine farm. • The proposed lapse period for the resource consent is 6 months after the date of commencement. • The re-consenting provisions of the NES-MA do not apply to a consent granted under this rule. | <p>This clause will enable small-scale research and trials involving aquaculture activities (excluding fed aquaculture) to be more easily consented in areas that already have a consent for aquaculture.</p> |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving aquaculture activities (excluding fed aquaculture)

| Regulation | Proposed provisions | Reasons |
|-------------------------------------|--|---|
| R7 – Matters of control | Introduce a new clause for matters of control applying to R6. The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1. | This amendment will set out matters of control for research and trial consent applications under regulation R6. Matters of control were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal are proposed to be removed. |
| R8 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R6 does not meet the following requirements:</p> <ul style="list-style-type: none"> the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R7:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving fed aquaculture on a farm already consented for fed aquaculture

| Regulation | Proposed provisions | Reasons |
|---|---|---|
| R9 – Research and trial activities that involve fed aquaculture activities for up to 7 years and under 4 ha on a farm already consented for fed aquaculture: controlled activity | <p>Introduce a new clause that makes establishing research and trial activities that involve fed aquaculture within the consented area of an existing marine farm already consented for fed aquaculture a controlled activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> <ul style="list-style-type: none"> The activity (including associated mooring and anchorage systems) must be within the consented area of an existing marine farm that is authorised for fed aquaculture. Must either be holder of existing consent for the marine farm or have written permission of existing consent holder. | This clause will enable small-scale research and trials involving fed aquaculture to be more easily consented in areas that already have a consent for fed aquaculture. |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving fed aquaculture on a farm already consented for fed aquaculture

| Regulation | Proposed provisions | Reasons |
|--------------------------------------|--|---|
| | <ul style="list-style-type: none"> The application is for an activity that is solely for research and trial purposes. The area occupied by the activity shall not exceed 4 ha (excluding associated mooring and anchorage systems). If the activity is not offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA), the maximum height of any surface structures associated with the activity shall not exceed 5 m. The structures are not located within a structure exclusion area identified in the regional coastal plan or on an existing resource consent. The activity is for a maximum period of 7 years, but no longer than the term remaining on the consent for the existing marine farm. The proposed lapse period for the resource consent is 6 months after the date of commencement. The re-consenting provisions of the NES-MA do not apply to a consent granted under this rule. The same activity cannot have occurred within the same location within the last 6 months. | |
| R10 – Matters of control | Introduce a new clause for matters of control applying to R6. The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1. | This amendment will set out matters of control for research and trial consent applications under regulation R9. Matters of control were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed. |
| R11 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R9 does not meet the following requirements:</p> <ul style="list-style-type: none"> the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R10:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving fed aquaculture on a farm not consented for fed aquaculture

| Regulation | Proposed provisions | Reasons |
|--|--|---|
| R12 – Research and trial activities on existing marine farms that involve fed aquaculture activities for up to 7 years and under 4 ha on a farm not consented for fed aquaculture: <i>restricted discretionary activity</i> | <p>Introduce a new clause that makes adding research and trial activities that involve fed aquaculture within the consented area of an existing marine farm not consented for fed aquaculture activities a restricted discretionary activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> <ul style="list-style-type: none"> • The activity (including associated mooring and anchorage systems) must be within the consented area of an existing marine farm. • Must either be holder of existing consent for the marine farm or have written permission of existing consent holder. • The application is for an activity that is solely for research and trial purposes. • The area occupied by the activity shall not exceed 4 ha (excluding associated mooring and anchorage systems). • The structures are not located within a structure exclusion area identified in the regional coastal plan or on an existing resource consent. • The activity is for a maximum period of 7 years, but no longer than the term remaining on the consent for the existing marine farm. • The proposed lapse period for the resource consent is 6 months after the date of commencement. • The re-consenting provisions of the NES-MA do not apply to a consent granted under this rule. | <p>This clause will enable small-scale research and trials involving fed aquaculture to be more easily consented in areas that already do not have a consent for fed aquaculture.</p> |
| R13 – Matters of discretion | <p>Introduce a new clause for matters of discretion applying to R12. The matters of discretion relate to key effects that may need to be managed through the consenting process. Matters of discretion are listed in attachment 2.1.1.</p> | <p>This amendment will set out matters of discretion for research and trial consent applications under regulation R12. Matters of discretion were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed.</p> |

PROPOSALS FOR NEW REGULATIONS

Research and trials involving fed aquaculture on a farm not consented for fed aquaculture

| Regulation | Proposed provisions | Reasons |
|--|--|--|
| R14 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R12 does not meet the following requirements:</p> <ul style="list-style-type: none"> the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R13:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |
| Miscellaneous | | |
| R15 – More lenient rules for applications under provisions in this Part | Introduce a new clause enabling regional councils to have a more lenient rule for an equivalent activity under R12 than a restricted discretionary activity. | This proposal enables regional councils to apply a more lenient rule for regulation R12, in the same way that the NES-MA currently enables more lenient rules for replacement consents. |
| R16 – Notification | <p>Introduce a new clause precluding public and limited notification for applications for coastal permits under R3, R6, and R9.</p> <p>Introduce new clauses that, for R12, preclude public notification and, if the Schedule 6 process is complete and a report is included in the application, preclude limited notification.</p> | This proposal prevents public and limited notification for applications under R3, R6, and R9, to provide a process that is proportionate to the potential impacts of the activity. Applications under R12 preclude public notification and, if the Schedule 6 process is completed, preclude limited notification. |

New Part – Provisions for research and trials in new space

| Regulation | Proposed provisions | Reasons |
|--|---|---|
| Research and trials only involving structures and equipment | | |
| R17 – Research and trial activities in new locations that involve only structures and equipment for up to 12 months | <p>Add a new clause that enables aquaculture-related research and trials in new locations as a permitted activity.</p> <p>Permitted activity conditions for applications to be eligible to use this regulation are below:</p> | This clause will enable smaller scale research and trials for structures and equipment in new locations to be undertaken as a permitted activity. |

New Part – Provisions for research and trials in new space

| Regulation | Proposed provisions | Reasons |
|---|---|---------|
| and under 5 m²: <i>permitted activity</i> | <ul style="list-style-type: none"> • The application is for an activity that is solely for research and trial purposes that relates to a current or potentially future aquaculture activity (but is not, in itself, an aquaculture activity). • The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed 5 m². • The maximum height of any surface structures associated with the activity shall not exceed 2.5 m. • The activity is for a maximum period of 12 months. • Must not be located within: <ul style="list-style-type: none"> – An outstanding area (as defined in NES-MA), unless the activity only involves subsurface structures; – A significant marine ecological area; – A mooring area identified in a plan or proposed plan; – A Port zone identified in a plan or proposed plan; – A nationally or regionally significant navigation corridor identified in a plan or proposed plan. • An activity authorised under this regulation cannot have occurred at the same location (or within a 100 m vicinity) within the last 6 months. • Must notify the regional council Harbour Master and tangata whenua prior to undertaking the activity (in writing with the actual position of the structures/equipment and any associated mooring and anchorage systems that have been deployed). • The structures/equipment is not located in a position that: <ul style="list-style-type: none"> – Would obstruct access by water to any wharf, landing place, boat ramp, slipway, navigational channel, or mooring; – Will restrict navigation (unless subject to relevant exemption by regional council); – Cause or have potential to cause, loss of life or injury to any person; or – Cause damage to any vessel or property. | |

New Part – Provisions for research and trials in new space

| Regulation | Proposed provisions | Reasons |
|---|--|--|
| | <ul style="list-style-type: none"> Structures/equipment and associated mooring and anchorage systems deployed shall be maintained in good structural condition and in an effective capacity at all times. Structures/equipment and any associated mooring and anchorage systems shall be marked as required by the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA) System 'A' Maritime Buoyage System. | |
| Research and trials only involving structures and equipment | | |
| R18 – Research and trial activities that involve only structures and equipment in new locations for up to 3 years and under 2 ha: <i>controlled activity</i> | <p>Introduce a new clause that makes establishing structures or equipment for aquaculture-related research and trials in new locations a controlled activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> <ul style="list-style-type: none"> The application is for an activity that is solely for research and trial purposes that relates to a current or potentially future aquaculture activity (but is not, in itself, an aquaculture activity). The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed: <ul style="list-style-type: none"> 0.5 ha; or 2 ha if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). The maximum height of any surface structures associated with the activity shall not exceed: <ul style="list-style-type: none"> 2.5 m; or 5 m if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). The activity is for a maximum period of 3 years. The proposed lapse period for the resource consent is 6 months after the date of commencement. Must not be located within: | <p>This clause will enable smaller scale aquaculture-related research and trials for structures to be more easily consented in certain new locations. Note that the clause R17 for a permitted activity is for a significantly smaller area and for a shorter period of time than this clause.</p> |

New Part – Provisions for research and trials in new space

| Regulation | Proposed provisions | Reasons |
|--------------------------------------|---|--|
| | <ul style="list-style-type: none"> – An outstanding area (as defined in NES-MA); – A significant marine ecological area; – A mooring area identified in a plan or proposed plan; – A Port zone identified in a plan or proposed plan; – A nationally or regionally significant navigation corridor identified in a plan or proposed plan. • The same activity cannot have occurred within the same location within the last 6 months. | |
| R19 – Matters of control | Introduce matters of control applying to R12. The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1. | This amendment will set out matters of control for research and trial consent applications under regulation R18. Matters of control were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed. |
| R20 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R18 does not meet the following requirements:</p> <ul style="list-style-type: none"> • the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and • the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R19:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6. <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |

Research and trials involving aquaculture activities (but not fed aquaculture)

| Regulation | Proposed provisions | Reasons |
|---|---|--|
| R21 – Research and trial activities in new locations that involve aquaculture activities for up to 7 years and under 4 ha (not including fed aquaculture): restricted discretionary activity | <p>Introduce a new clause that makes establishing aquaculture-related research and trial activities (that do not involve fed aquaculture) in new locations a restricted discretionary activity.</p> <p>Entry requirements for applications to be eligible to use this regulation are below:</p> | This clause will enable small-scale research and trials involving non-fish aquaculture to be more easily consented in certain new locations. |

Research and trials involving aquaculture activities (but not fed aquaculture)

| Regulation | Proposed provisions | Reasons |
|------------|--|---------|
| | <ul style="list-style-type: none"> • The application is for an activity that is solely for aquaculture-related research and trial purposes. • Research and trial activity must not involve fed aquaculture. • The area occupied by the activity and its associated mooring and anchorage systems (if relevant) shall not exceed: <ul style="list-style-type: none"> – 1 ha; or – 4 ha if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). • The maximum height of any surface structures associated with the activity shall not exceed: <ul style="list-style-type: none"> – 2.5 m; or – 5 m if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). • The activity is for a maximum period of 7 years. • The proposed lapse period for the resource consent is 6 months after the date of commencement. • Must not be located within: <ul style="list-style-type: none"> – An outstanding area (as defined in NES-MA); – A significant marine ecological area; – A mooring area identified in a plan or proposed plan; – A Port zone identified in a plan or proposed plan; – A nationally or regionally significant navigation corridor identified in a plan or proposed plan. • The re-consenting provisions of the NES-MA do not apply to a consent granted under this rule. | |

| Research and trials involving aquaculture activities (but not fed aquaculture) | | |
|---|--|--|
| Regulation | Proposed provisions | Reasons |
| R22 – Matters of discretion | <p>Introduce a new clause for matters of discretion.</p> <p>The matters of discretion relate to key effects that may need to be managed through the consenting process. Matters of discretion are listed in attachment 2.1.1.</p> | This amendment will set out matters of discretion for research and trial consent applications under regulation R21. Matters of discretion were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed. |
| R23 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R21 does not meet the following requirements:</p> <ul style="list-style-type: none"> the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R22:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 <u>The effects of the activity on tangata whenua values.</u></p> | This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently. |
| Research and trials involving fed aquaculture | | |
| R24 – Research and trial activities in new locations that involve fed aquaculture activities for up to 7 years and under 4 ha: restricted discretionary activity | <p>Add a new clause that makes establishing aquaculture-related research and trial activities (that involve fed aquaculture) in new locations a restricted discretionary activity.</p> <p>Entry requirements for this clause are below:</p> <ul style="list-style-type: none"> The application is for an activity that is solely for aquaculture-related researches. The area occupied by the activity shall not exceed: <ul style="list-style-type: none"> 1 ha (excluding its associated mooring and anchorage systems); or 4 ha (excluding its associated mooring and anchorage systems) if offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA). If the activity is not offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas | This clause will enable small-scale research and trials involving fed aquaculture to be more easily consented in certain new locations. |

| Research and trials involving aquaculture activities (but not fed aquaculture) | | |
|--|---|---|
| Regulation | Proposed provisions | Reasons |
| | <p>described in Schedule 3 of the NES-MA), the maximum height of any surface structures associated with the activity shall not exceed 5 m.</p> <ul style="list-style-type: none"> • The activity is for a maximum period of 7 years. • The proposed lapse period for the resource consent is 6 months after the date of commencement. • Must not be located within: <ul style="list-style-type: none"> – An outstanding area (as defined in NES-MA); – A significant marine ecological area; – A mooring area identified in a plan or proposed plan; – A Port zone identified in a plan or proposed plan; – A nationally or regionally significant navigation corridor identified in a plan or proposed plan. • The re-consenting provisions of the NES-MA do not apply to a consent granted under this rule. | |
| R25 – Matters of discretion | <p>Introduce a new clause for matters of discretion.</p> <p>The matters of discretion relate to key effects that may need to be managed through the consenting process. Matters of discretion are listed in attachment 2.1.1.</p> | <p>This amendment will set out matters of discretion for research and trial consent applications under regulation R24. Matters of discretion were collated based on existing matters of discretion in the NES-MA to ensure a consistent approach. Matters not relevant to the policy proposal were removed.</p> |
| R26 – Views of tangata whenua | <p>Introduce a new clause as follows:</p> <p>If the application under R24 does not meet the following requirements:</p> <ul style="list-style-type: none"> • the applicant has undertaken the process outlined in Schedule 6 within the previous 12 months; and • the application includes the report required by clause 5 of that schedule. <p>Then make the following change to the relevant matter of control in R25:</p> <p>The effects of the activity on matters identified in the report required by clause 5 of Schedule 6. <u>The effects of the activity on tangata whenua values.</u></p> | <p>This clause applies the Schedule 6 process for seeking views of tangata whenua on draft applications to this research and trial proposal, in the same way that it applies to applications for replacement consents under the NES-MA currently.</p> |

| Research and trials involving aquaculture activities (but not fed aquaculture) | | |
|--|--|--|
| Regulation | Proposed provisions | Reasons |
| Miscellaneous | | |
| R27 – More lenient rules for applications under provisions in this Part | Introduce a new clause enabling regional councils to have a more lenient rule for an equivalent activity under R21 or R24 than that of a restricted discretionary activity. | This proposal enables regional councils to apply a more lenient rule for regulation R21 or R24, in the same way that the NES-MA currently enables more lenient rules for replacement consents. |
| R28 – Notification | Introduce a new clause precluding public and limited notification for applications under regulation R18 and precluding public notification for applications under regulations R21 and R24. | This proposal prevents public and limited notification for applications under R18, to provide a process that is proportionate to the potential impacts of the activity. Applications under R21 and R24 preclude public notification. |

| PROPOSALS FOR NEW REGULATIONS | | |
|--|--|--|
| Change or cancellation of consent conditions for aquaculture activities | | |
| Regulation | Proposed provisions | Reasons |
| R29 – Application of regulations | Introduce a new clause that specifies that this part only applies to applications relating to existing coastal permits for aquaculture activities that seek to change or cancel consent conditions. | This amendment is needed to enable the NES-MA to be used to specify particular circumstances where applications can be made to change or cancel consent conditions for existing coastal permits for aquaculture activities. |
| R30 – Changes or cancellation of consent conditions relating to consented species: <i>controlled activity</i> | <p>Introduce a new clause that sets out that the following changes of consent conditions will be considered as if they were for an application for a controlled activity:</p> <ul style="list-style-type: none"> • Adding spat catching to an existing farm consented for that species; • Adding indigenous bivalve species and Pacific oysters to a farm already consented for bivalves; • Adding indigenous seaweed species and <i>Undaria pinnatifida</i> to an existing marine farm; and • Adding finfish to an existing finfish farm. | These clauses will enable more efficient consenting processes for changing consent conditions to add spat catching, indigenous bivalves, Pacific oysters, and indigenous seaweed species as well as <i>Undaria pinnatifida</i> to existing consents where structures are remaining the same/similar. |
| R31 – Matters of control for a change or cancellation of consent conditions relating to consented species | Introduce a new clause to set matters of control for changes/cancellation of consent conditions relating to species. The matters of control relate to key effects that may need to be managed through the consenting process. The matters of control are listed in attachment 2.1.1. | This clause will enable more efficient consenting processes for changing consent conditions to add spat catching, bivalve and indigenous seaweed species to existing consents where structures are remaining the same/similar. |

PROPOSALS FOR NEW REGULATIONS

Change or cancellation of consent conditions for aquaculture activities

| Regulation | Proposed provisions | Reasons |
|--|--|---|
| R32 – Change or cancellation of consent conditions relating to consented structures: <i>controlled activity</i> | <p>Introduce a new clause to enable an application for a change or cancellation of conditions related to the structures authorised on the consent to be considered as a controlled activity to include the following changes:</p> <ul style="list-style-type: none"> • Converting longlines to floating shellfish cages or baskets; • Converting stick and rail to floating longlines or fixed lines; and • Replacing existing mooring systems within same footprint (eg, concrete block to screw). | This clause will enable more efficient consenting processes for changing consent conditions to alter conditions related to structures on existing consents where structures are remaining the same/similar. |
| R33 – Matters of control for a change or cancellation of consent conditions for structures | <p>Introduce a new clause for matters of control.</p> <p>The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1.</p> | This change will enable more efficient consenting processes for changing consent conditions to alter conditions related to structures on existing consents where structures are remaining the same/similar. |
| R34 – Change or cancellation of consent conditions relating to monitoring: <i>controlled activity</i> | <p>Introduce a new clause to enable application to change method of monitoring of seabed conditions to another method that is demonstrated to be equally/more effective to be considered as a controlled activity.</p> <p>Controlled activity condition:</p> <ul style="list-style-type: none"> • Application includes written agreement from relevant council that the proposed new method of monitoring is equivalent to or more effective than the current method of monitoring. | This clause will enable marine farmers to change their monitoring methods to reflect best practice/technological changes. |
| R35 – Matters of control for a change or cancellation of consent monitoring conditions | <p>Introduce a new clause for matters of control. The matters of control relate to key effects that may need to be managed through the consenting process. Matters of control are listed in attachment 2.1.1.</p> | This change will enable more efficient consenting processes for changing consent conditions to alter conditions related to monitoring methods to reflect best practice/technological changes. |
| R36 – Notification for change or cancellation of consent conditions | <p>Add a new clause requiring that applications for a change of consent conditions must not be publicly notified or given limited notification unless public or limited notification is required under the Act.</p> <p>Limited notification is not precluded if the applicant has not undertaken the Schedule 6 process within the previous 12 months or does not include the report required by Schedule 6.</p> | This clause will set out that there will be no public notification of change of consent condition applications unless specifically required by the Act, and limited notification precluded provided the Schedule 6 process has been undertaken. This streamlines notification processes, reflecting the low risk profile of changes likely to be made under these provisions. |

Attachment 2.1.1 – Matters of control and discretion for proposed new regulations in the National Environmental Standards for Marine Aquaculture (Attachment 2.1)

Attachment 2.1 outlines proposed provisions to amend the NES-MA including controlled activities and restricted discretionary activities which require resource consents. It refers to this attachment as containing further details about the proposed matters of control and discretion for the proposed new provisions. Table 1 refers to proposed matters of control and discretion linked to the rule number sequence for proposed provisions in attachment 2.1.

Table 1: Matters of control and discretion for proposed amendments to the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 (NES-MA)

| Proposed matters of control and discretion in the NES-MA | Matters of control and discretion for proposed NES-MA regulations (blue = included) | | | | | | | | | |
|---|---|----|-----|-----|--|-----|-----|-------------------------------|-----|-----|
| | Research and trials in consented space | | | | Research and trials in unconsented space | | | Changes to consent conditions | | |
| | R4 | R7 | R10 | R13 | R19 | R22 | R25 | R31 | R33 | R35 |
| The duration and lapsing of the coastal permit | | | | | | | | | | |
| Review conditions | | | | | | | | | | |
| When occupation is authorised in relation to seasonal activities, such as spat catching | | | | | | | | | | |
| The layout, positioning, density, lighting, and marking of marine farm structures within a marine farm for the purpose of ensuring (i) continued reasonable public access (including recreational access) in the vicinity of the marine farm; and (ii) navigational safety, including the provision of navigation warning devices and signs | | | | | | | | | | |
| The layout, positioning, density, lighting, and marking of structures within the consented area for the purpose of ensuring (i) continued reasonable public access (including recreational access) in the vicinity of the consented area; and (ii) navigational safety, including the provision of navigation warning devices and signs | | | | | | | | | | |
| The integrity and security of the structures, including the anchoring systems | | | | | | | | | | |
| The effects of the activity on matters identified in the report required by clause 5 of Schedule 6 | | | | | | | | | | |

| Proposed matters of control and discretion in the NES-MA | Matters of control and discretion for proposed NES-MA regulations (blue = included) | | | | | | | | | |
|--|---|----|-----|-----|--|-----|-----|-------------------------------|-----|-----|
| | Research and trials in consented space | | | | Research and trials in unconsented space | | | Changes to consent conditions | | |
| | R4 | R7 | R10 | R13 | R19 | R22 | R25 | R31 | R33 | R35 |
| The effects of the activity on reefs, biogenic habitat, and regionally significant benthic species within the area of interest | | | | | | | | | | |
| The biosecurity effects arising from the farming of the new species | | | | | | | | | | |
| Management practices to minimise adverse interactions between marine mammals or seabirds and the marine farm, including entanglements, injury, and mortality | | | | | | | | | | |
| The management of biosecurity risks | | | | | | | | | | |
| The management of the effects on the environment of noise, rubbish, and debris | | | | | | | | | | |
| Conditions relating to adverse effects of the activity on marine mammals and seabirds | | | | | | | | | | |
| The genetic effects on wild populations of farmed species escaping | | | | | | | | | | |
| Measures to avoid, remedy, or mitigate adverse effects on water quality by nutrient enrichment | | | | | | | | | | |
| Effects on water quality | | | | | | | | | | |
| The effects of seabed disturbance | | | | | | | | | | |
| If the plan or proposed plan includes an adaptive management approach, conditions that give effect to that approach | | | | | | | | | | |
| Information, monitoring, and reporting requirements | | | | | | | | | | |
| Hydrodynamic effects | | | | | | | | | | |
| The effects of the activity on historic heritage | | | | | | | | | | |
| Requirements to surrender the coastal permit for any space no longer occupied as a result of realignment | | | | | | | | | | |

| Matters of control and discretion | Matters of control and discretion for proposed NES-MA regulations (blue = included) | | | | | | | | | |
|---|---|----|-----|-----|--|-----|-----|-------------------------------|-----|-----|
| | Research and trials in consented space | | | | Research and trials in unconsented space | | | Changes to consent conditions | | |
| | R4 | R7 | R10 | R13 | R19 | R22 | R25 | R31 | R33 | R35 |
| If the relevant marine farm is located in an outstanding area, the effects of the realignment on the values and characteristics that make the area, feature, or landscape outstanding | | | | | | | | | | |
| If in an outstanding area, effects on the values and characteristics that make the area outstanding | | | | | | | | | | |
| The positive effects of the realignment of the marine farm | | | | | | | | | | |
| If a change to surface structures is proposed, conditions relating to the effects of the visual appearance of the surface structures in relation to location, density, materials used, colour, and reflectivity | | | | | | | | | | |
| If the activity is not offshore (offshore meaning any location not within 2 km of mean high-water springs or within the harbours and other areas described in Schedule 3 of the NES-MA), conditions relating to the effects of the visual appearance of the surface structures in relation to location, density, materials used, colour, and reflectivity | | | | | | | | | | |
| Administrative charges, coastal occupation charges, financial contributions | | | | | | | | | | |
| Bonds or any alternative measures to recover the cost of repairing or removing abandoned or derelict structures and reinstating the environment | | | | | | | | | | |
| The use of antibiotics and therapeutants in the marine farm | | | | | | | | | | |
| The degree of exclusive occupation, if sought | | | | | | | | | | |
| Underwater lighting and lighting of structures | | | | | | | | | | |
| Management practices to minimise shark interactions with the marine farm | | | | | | | | | | |

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