

## Contents Page: Taniwha - Te Whakakitenga

All written comments received on the proposed National Environmental Standard for Marine Aquaculture, grouped alphabetically according to business/organisation/iwi/surname.

Written Comments Number	Business/Organisation/Iwi/Surname	First Name
0027	Taniwha Oysters Ltd	
0024	Tasman District Council	
0060	Te Arawa River Trust	
0013	Te Atiawa Manawhenua Ki Te Tau Ihu Trust	
0068	Te Ohu Kaimoana	
0057	Te Roroa Commercial Development Company	
0077	Te Runanga o Ngai Tahu	
0096	Te Runanga o Ngati Kuia	
0062	Te Runanga o Ngati Ruanui Trust	
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## Proposed National Environmental Standard for Marine Aquaculture Submission

To the Ministry for Primary Industries

[aquaculture@mpi.govt.nz](mailto:aquaculture@mpi.govt.nz)

8 August 2017

Mr Pene Waitai  
Pene Benjamin Waitai

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Taniwha Oysters Ltd

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PO Box 133, Awanui

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### 1.0 Introduction

I currently hold two Oyster Farm leases. One lease is 8 hectares in Te Puna Inlet, Kerikeri and the other is 5 Hectares in Rangaunu Harbour, Awanui.

I currently farm Pacific Oysters in Te Puna Inlet and the Rangaunu farm is not operating.

Currently we have five employees – one of these is a part timer.

- What you value about your business; We value sustainability and creating employment for locals.
- What you have planned for your business in the future; We aim to export our own oysters.
- How your business adds value to your local community. We give towards local hui and tangis. We purchase locally and employ and train local people.

As an industry we are proud farmers, we are passionate farmers and we are good farmers. Our commitment to the recently launched A+ sustainable management programme is a clear demonstration of the care and respect we have for the waters and locations in which we farm.

I support the submission of Aquaculture New Zealand (AQNZ).

### 2.0 The Issues

- Aquaculture is the heart of regional communities like Havelock, Coromandel, Warkworth, Bluff and Twizel.
- Our products provide kiwis with healthy, sustainable food, produced in New Zealand – a far better choice than most other protein sources available worldwide.

- The industry offers tremendous sustainable growth potential for New Zealand to create more regional jobs, support associated industries and bring much needed export earnings into local communities and the economy.
- But for years the potential has been hampered by a regulatory regime that drains vital resources that could otherwise be invested in innovation, product development and building new premium markets
- Under the current regime, variations and inconsistencies for re-consenting rules in different regions create complexity and uncertainty – and creates extra delays and costs for industry, councils and communities
- With up to 75% of marine farm consents due to expire by 2025, the current consenting processes create a cloud over the future shape of the industry

### **3.0 General Support for the Proposed NES**

- I broadly support the NES as proposed.
- The proposed NES will provide better outcomes for the industry, communities, councils, iwi groups and the environment
- The proposed NES will provide a more efficient and certain consent process for managing existing farms within evidence-based environmental limits.
- The NES proposal carefully balances improving certainty while recognising the values and characteristics that make our marine environment so special.
- It will allow efficient evidence based decisions to be made while encouraging regions to proactively plan for aquaculture in their regions into the future.
- It will require marine farmers to provide evidence and proof to councils that they are operating sustainably within environmental limits.
- The proposal will free up resources currently spent on consent processes, to invest in building value for New Zealand through innovation, product development and new premium markets as well as investment in proactive environmental management.

### **4.0 Specific Comments on the Proposal**

- I agree that the NES is the best available option under the current circumstances.
- I agree that restricted discretionary activity should be given to all consent renewals for aquaculture but note that it is crucial to retain the accompanying proposal for consent renewals to be non-notified in order to meet the proposal's objectives.
- However, there is also a good case for making replacement consents for most existing aquaculture a controlled activity as for the most part, they are an accepted part of the existing environment and generally in appropriate locations.
- There is a strong need for the additional guidance, particularly in light of the current subjectivity and lack of clarity around implementation of the New Zealand Coastal Policy Statement (NZCPS).
- There is also a strong case for an NZCPS - Aquaculture to be progressed within its own timing as this would provide stronger policy support than the guidance as well as allowing for strategic planning for, and management of, aquaculture into the future.

- I support the intent of the biosecurity proposals, however note the AQNZ recommendations to ensure they are sensible and workable and set up in the context of other users in the coastal marine area.
- I support enabling innovation through providing for changes of species as a restricted discretionary activity.

## 5.0 Questions for Submitters

*Question 1: Do you think an NES for marine aquaculture, including guidance material, is required? Alternatively do you think the status quo (where regional councils decide the activity status for replacement consents for existing marine farms and consents for change of species which can vary from controlled to non-complying) should be maintained?*

Yes.

*Question 2: Do you think restricted discretionary is an appropriate status for replacement consents for existing marine farms? How would other activity statuses address the issues identified in section 3 of the discussion document?*

Yes. Non-notification is essential for the proposal to meet its objectives. Controlled activity status is preferred and appropriate for existing marine farm consents.

*Question 3: Does the NES need to provide a full rule framework, including discretionary activity rules for those marine farms that cannot meet the requirements to be a restricted discretionary activity?*

No.

*Question 4: Do provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional terms to define what qualifies to be a restricted discretionary activity?*

No.

*Question 5: Do you have any feedback on the analysis of effects contained in Appendix G?*

The positive social and community benefits could have been highlighted better.

*Question 6: Should applications for replacement consents for existing marine farms where supplementary feeding occurs be treated differently under the proposed NES or not addressed at all?*

No.

*Question 7: Do the provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional matters of discretion?*

No.

*Question 8: Should the extent of an acceptable overlap of existing marine farms with outstanding areas due to margins of error in mapping be defined?*

It would be preferable that the Minister determine which farms should be subject to assessment under policy 13 and 15 using the best available information.

*Question 9: Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified, such as those listed in Policy 11 of the NZCPS 2010?*

No.

*Question 10: If so, what are these areas/values and what are the potential effects of concern caused by existing marine farms on those areas/values?*

Not applicable.

*Question 11: Should the activity status be different for replacement consents for existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?*

No.

*Question 12: Are there certain types of aquaculture for which replacement consent applications should be publicly notified?*

No.

*Question 13: Are there advantages or disadvantages to allowing councils to take a more lenient approach that you would like us to be aware of?*

Allowing councils to take a more lenient approach encourages proactive planning in accordance with the NZCPS Policy 8.

*Question 14: Do you agree that the areas zoned specifically for aquaculture in Tasman and Waikato should be exempted from the provisions of the proposed NES relating to replacement consents for existing marine farms?*

Yes.

*Question 15: Do you agree that there are sites that should be recognised in the proposed NES because of their particular importance to aquaculture? If so, what sort of provisions do you think would be appropriate?*

Yes. Spat farms of national significance such as the Wainui Bay mussel spat farms in Golden Bay.

*Question 16: Are there other ways in which the proposed NES could usefully recognise council's future planning processes?*

An NZCPS – Aquaculture should be implemented to support and encourage collaborative and strategic planning for new aquaculture in appropriate areas.

*Question 17: What are your thoughts on the size restriction that is proposed to apply to realignments covered by the proposed NES?*

It is appropriate.

*Question 18: Is there further guidance that should be provided in the proposed NES in relation to realigning existing marine farms?*

Yes.

*Question 19: Are there other specific matters that councils should be able to consider for applications to realign existing marine farms? Are the matters that have been identified all relevant?*

The matters that have been identified are relevant and sufficient.

*Question 20: Should the proposed NES address change in farmed species?*

Yes.

*Question 21: Should the proposed NES limit the species it relates to?*

No.

*Question 22: Are the categories based on change in structure an appropriate approach? If not, can you suggest any other approach that might be suitable?*

The categories are an appropriate approach.

*Question 23: Are there any other categories [that should be considered for the change of species provisions]?*

No.

*Question 24: Should herbivorous finfish be treated differently from carnivorous finfish?*

No.

*Question 25: Is restricted discretionary an appropriate status for most changes in species?*

Yes.

*Question 26: Should spat catching farms be excluded [from the change of species provisions]?*

No.

*Question 27: Are there any other forms of farming or species that should be excluded [from the change of species provisions]?*

No.

*Question 28: Do you have any feedback on the scope of matters of discretion?*

It will be important to ensure that these categories all remain non-notified so that the decisions can be evidence based.

*Question 29: Should change of species involving finfish require additional matters of discretion?*

No.

*Question 30: Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified?*

No.

*Question 31: Should the activity status be different for changing species on existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?*

No.

*Question 32: Are there certain species or types of species where consent applications should be publicly notified?*

No.

*Questions 33 to 40 – Biosecurity Management Plans:*

I agree with the points raised regarding Biosecurity Management Plans in the AQNZ submission.

*Question 41: Have the range of costs and benefits arising from the proposed national environmental standard, and who might bear the costs or receive the benefits, been accurately reflected? Are there any costs and benefits that have been overlooked?*

Further detail could be provided/explored regarding the social and community benefits of the industry.


*Question 42: Are the estimates of costs and benefits accurate? Do you have information on costs and benefits that could assist the second stage of our assessment (of the impacts of the final proposal)? Do you have any information on costs and benefits that have not been quantified at this stage?*

As above.

## 6.0 Summary Statement

I am proud of my role providing healthy, nutritious, sustainable seafood to kiwis as well as jobs and a sense of community to regional New Zealand. I want to focus my business' resources on making this contribution better, through innovation, product development and collectively improving our environment. Without the proposed NES I will instead need to focus on engaging planners and lawyers to continue to operate beyond the consent horizon. The proposed NES is an essential and welcome initiative that will bring a better future for the industry and our communities.

Name PENE WAITAI

Signature  Date 2/8/17





## Proposed National Environmental Standard for Marine Aquaculture Submission Template

We would like to hear your views on the proposed National Environmental Standard for Marine Aquaculture (NES: Marine Aquaculture).

Please feel free to use this template to prepare your submission. Once complete please email to [aquaculture@mpi.govt.nz](mailto:aquaculture@mpi.govt.nz).

As stated in section 8 of the discussion document, your submission must include the following information:

- your name and postal address, phone number, and email address (where applicable)
- the part or parts of the proposed NES you are submitting on
- whether you support or oppose the part or parts of the proposed NES
- your submissions, with reasons for your views
- any changes you would like made to the proposed NES
- the decision you wish the Minister for the Environment and the Minister for Primary Industries to make.

For more information about how to make a submission, please refer to section 8 of the discussion document: *Proposed National Environmental Standard for Marine Aquaculture*.

### Contact details

Name:

Tania Bray

Postal address:

189 Queen Street, Private Bag 4

Phone number:

[REDACTED]

Email address:

[REDACTED]

Are you submitting on behalf of an organisation? Yes [ Y ] No [ ]

If yes, which organisation are you submitting on behalf of?

Tasman District Council



## ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

## ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*Please indicate below if you wish your personal details to be withheld:*

☐ Please withhold my personal details where submissions are made public

☐ Please withhold my personal details in response to a request under the Official Information Act 1982

## **Questions for submitters**

The questions for submitters that are included throughout the discussion document are provided below. We encourage you to provide comments to support your answers to the questions below. You do not have to answer all questions for your submission to be considered.

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### **Question 1:**

Do you think an NES for marine aquaculture, including guidance material, is required? Alternatively do you think the status quo (where regional councils decide the activity status for replacement consents for existing marine farms and consents for change of species which can vary from controlled to non-complying) should be maintained?

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An NES could be useful because it would provide a consistent approach to re-consenting throughout the country. However, where the effects are known, unless the activity status is controlled, the NES may not provide the certainty that existing consent holders are looking for.

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### **Question 2:**



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Do you think restricted discretionary is an appropriate status for replacement consents for existing marine farms? How would other activity statuses address the issues identified in section 3 of the discussion document?

The replacement consent provisions in the proposed NES do not affect Tasman. Tasman District Council ("The Council") supports that approach.

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Beyond benthic effects and landscape/feature effects, there is nothing within the restricted discretionary matters of discretion that will enable a replacement consent to be declined. For those sites that are not affected by those two matters of discretion then it would be more efficient to provide for those sites as controlled activities with the same matters of control/discretion

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### Question 3:

Does the NES need to provide a full rule framework, including discretionary activity rules for those marine farms that cannot meet the requirements to be a restricted discretionary activity?

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The proposed NES rule framework for re-consenting does not affect Tasman (with the exception of the Wainui Bay spat catching farms).

With regard to the areas where the rules do apply the only activity that cascades to discretionary are those farms within areas that are identified as inappropriate in RCP **after** the gazetting of the NES. The NES will prevent the RCP from making the renewal of consents within inappropriate areas more stringent than discretionary. NZCPS policy 7(b) requires areas to be identified as inappropriate and either to provide for them through a consent process or not to provide for them (prohibit). Similarly, Policies 13 and 15 anticipate that in protecting natural character/landscape/features from inappropriate use, some activities will need to be avoided because of their adverse effects. If the discretionary rule only applies to those areas identified **after** gazettal of the NES, then 1) at the same time as drafting a plan change to identify the inappropriate uses, one would expect a full tailored rule regime to be also included in the plan. 2) If an activity i.e. marine farming was found to be inappropriate because of adverse effects on say the landscape then it would be clearer to enable Council's make that activity prohibited, than for the NES to make it discretionary and for the Council then to have to decline it. Possibly in accordance with clearly articulated policies in the Plan and/or in accordance with the NZCPS.

If the marine farms are within areas deemed to be inappropriate for reasons other than those in the Restricted Discretionary matters of discretion and the identification of the activity as being inappropriate is **before** the gazettal of the NES, then those matters can't be taken in to consideration? How does this fit with policies 6 & 7 of the NZCPS.

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It would be useful if the NES could clarify whether a **proposed** RCP plan change identifying outstanding natural character/landscape/features is a trigger for the RD



matter of discretion before it is operative. Landscape provisions tend to take a number of years to become operative and if not operative by time of renewal (anytime between NES gazettal and 2024) in then it will take a full term of consent before the effects on identified natural character/landscape/features will be taken into consideration.

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**Question 4:**

Do provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional terms to define what qualifies to be a restricted discretionary activity?

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**Question 5:**

Do you have any feedback on the analysis of effects contained in Appendix G?  
No, appears to be a fair assessment

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**Question 6:**

Should applications for replacement consents for existing marine farms where supplementary feeding occurs be treated differently under the proposed NES or not addressed at all?

This does not affect Tasman. However, provided the likely adverse effects have been adequately addressed in the matters of discretion, then Council does not see a reason why they should be treated any differently.

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**Question 7:**

Do the provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional matters of discretion?

This does not affect Tasman. However, the matters listed on pages 27 and 28 do not include the effects of any floating structures on the amenity of the immediate area. Only conditions that directly relate to the matters of discretion can be imposed on a permit, so Councils could not impose conditions requiring recessive, non-reflective colours on any structures, or require that they be maintained in a neat and tidy condition.

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**Question 8:**



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Should the extent of an acceptable overlap of existing marine farms with outstanding areas due to margins of error in mapping be defined?

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This does not affect Tasman, but Council considers that some reasonable limit should be defined.

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**Question 9:**

Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified, such as those listed in Policy 11 of the NZCPS 2010?

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Yes, Council considers that it would be appropriate for policy 11 to be addressed in the matters of discretion.

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**Question 10:**

If so, what are these areas/values and what are the potential effects of concern caused by existing marine farms on those areas/values?

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Councils may not have the resources to undertake the work needed to identify sites with significant indigenous biological diversity, but when they do it would be appropriate to consider those values if a marine farm is located in an identified area. The effects are likely to relate to the effects of shading, disturbance with anchoring structures and discharges from the farm both from the farmed stock and introduced feed.

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**Question 11:**

Should the activity status be different for replacement consents for existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?

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If Plans identify areas where the adverse effects of the marine farms on the outstanding values/character cannot be avoided, then Councils should be able to identify a more stringent consenting category than provided for in the proposed NES e.g. non-complying or prohibited in accordance with the NZCPS. Council notes that the NZCPS requires the avoidance of significant adverse effects on other areas of character/landscape/feature, and the NES does not enable this to be considered as the effects are only able to be considered in outstanding areas. Councils may be left in the uncomfortable position where their plans give effect to



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the NZCPS but their provisions are over ridden by the NES or rules are consistent with the NES, but don't give effect to the NZCPS.

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**Question 12:**

Are there certain types of aquaculture for which replacement consent applications should be publicly notified?

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Tasman District Council recently considered a private plan change for the Wainui Bay spat catching farms. As part of Council's decision on that plan change a provision was included to require public notification. In the case of those farms the notification provision was included to provide assurances to the community that they would be able to raise any issues regarding the operation of the farms, during renewal of consents. At Wainui Bay it was acknowledged that the nature of the operation and the closeness of the farms to other activities, created effects which needed to be addressed through conditions and it was appropriate to involve affected community in the development of conditions. TDC would like to retain the right to publically notify these farms under the NES. This is consistent with the plan change decision Council has made but which is now under appeal.

There may be other locations for site-specific reasons that public notification would be beneficial. The existing provisions in the RMA require that an assessment of effects to be made in order to determine an appropriate processing path. Council supports the ability of Council to determine the need to notify an application or not.

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**Question 13:**

Are there advantages or disadvantages to allowing councils to take a more lenient approach that you would like us to be aware of?

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In the areas where sufficient strategic planning has been undertaken and there is a depth of evidence identifying the effects of the activity, then Councils should be able to provide for aquaculture as a controlled activity.

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If consent renewals become restricted discretionary activities under the NES and it is very unlikely that an application would be declined because the matters of discretion are so limited, then enabling Councils to adopt a controlled activity rule framework is more efficient.

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**Question 14:**

Do you agree that the areas zoned specifically for aquaculture in Tasman and Waikato should be exempted from the provisions of the proposed NES relating to replacement consents for existing marine farms?

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Council agrees with the proposal to exclude the identified areas in Tasman from the provisions relating to replacement consents. Council notes that the maps should include the interim AMA areas and a question remains around AMA 2 subzone (p) as the UAE decision has yet to be made for that subzone.

Council agrees that because these areas are specially zoned for aquaculture and have an overall planning and consenting structure that aims to manage cumulative effects, it is not appropriate or necessary to alter the rules through the proposed NES. If the Tasman AMA's were to be included in the NES then the collaborative value of the planning framework and continuing adaptive management would be lost.

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If the Wainui Bay farms are not provided for as a site of significance ( see Question 15), Council requests that the farms at Wainui Bay to be dealt with the same as other Tasman marine farms and be excluded from the renewal of consent provisions.

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Council submits that specifically zoned sites should not be exempt from the marine biosecurity provisions of the NES. Biosecurity Management Plan requirements need to be consistently applied or they will not be effective.

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### **Question 15:**

Do you agree that there are sites that should be recognised in the proposed NES because of their particular importance to aquaculture? If so, what sort of provisions do you think would be appropriate?

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Council acknowledges the particular importance of the Wainui Bay spat catching sites and supports the inclusion of the sites in the NES as such a sites of importance.

Under the proposed NES renewal of consents for the Wainui Bay spat catching farms will be a restricted discretionary activity. Council has recently considered a private plan change request for the farms and determined that the activity should be a controlled activity. The consenting status was based largely on the evidence presented on the effects observed to date. Council was confident that the effects could be adequately avoided, remedied or mitigated via conditions. Council supports a controlled activity status for these farms.

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Council submits that sites of particular importance should not be exempt from Biosecurity Management Plan requirements or wider requirements will not be effective.

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### **Question 16:**

Are there other ways in which the proposed NES could usefully recognise council's future planning processes?



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**Question 17:**

What are your thoughts on the size restriction that is proposed to apply to realignments covered by the proposed NES?

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This does not affect Tasman

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**Question 18:**

Is there further guidance that should be provided in the proposed NES in relation to realigning existing marine farms?

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This does not affect Tasman

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**Question 19:**

Are there other specific matters that councils should be able to consider for applications to realign existing marine farms? Are the matters that have been identified all relevant?

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This does not affect Tasman

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**Question 20:**

Should the proposed NES address change in farmed species?

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If the matters of discretion capture the effects of different species then Council does not see a reason for a change in species to be treated differently.

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**Question 21:**

Should the proposed NES limit the species it relates to?

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As above

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**Question 22:**

Are the categories based on change in structure an appropriate approach? If not, can you suggest any other approach that might be suitable?





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Not if the likely effects of a change in structure are addressed in the matters of discretion

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**Question 23:**

Are there any other categories [that should be considered for the change of species provisions]?

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**Question 24:**

Should herbivorous finfish be treated differently from carnivorous finfish?

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As above

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**Question 25:**

Is restricted discretionary an appropriate status for most changes in species?

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If the matters capture all the effects, not sure that they are all addressed in the proposed matters.

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**Question 26:**

Should spat catching farms be excluded [from the change of species provisions]?

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No

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**Question 27:**

Are there any other forms of farming or species that should be excluded [from the change of species provisions]?

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**Question 28:**

Do you have any feedback on the scope of matters of discretion?

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The matters of discretion do not include adaptive management. There may be some benefit in providing for adaptive management outside of Tasman and

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Waikato e.g. cumulative effects, changes in phytoplankton levels, climate change and any other unforeseen effects.

If previous strategic planning has identified marine farms as being an inappropriate use in that location, for reasons other included in the list then there is no discretion to consider those matters.

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Landscape etc. effects are only considered in outstanding areas, not where there are significant adverse effects.

Also as mentioned earlier the effects of any floating structures on the amenity of the immediate area are not specifically included so conditions requiring recessive, non-reflective colours on any structures or a requirement that they be maintained to an appropriate standard are not able to be imposed.

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**Question 29:**

Should change of species involving finfish require additional matters of discretion?

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**Question 30:**

Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified?

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Refer response to question 9

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**Question 31:**

Should the activity status be different for changing species on existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?

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Open discretion may be more appropriate to capture unforeseen effects

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**Question 32:**

Are there certain species or types of species where consent applications should be publicly notified?

Councils should be able to make the notification decision on a case by case basis after assessing the likely effects on the environment. They are best placed to do that given their knowledge of the area, the community and the likely effects of farming a given species in the context.

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**Question 33:**

Do you think it is necessary for all marine farms to prepare, implement and keep up to date Biosecurity Management Plans (BioMP)? What concerns would you have if it were required? What (if any) exceptions should be made and why?

Council considers that all marine farm consent holders should be required to have working BioMP's or an agreed equivalent way of delivering marine biosecurity outcomes. The significant ability of marine pests to propagate and spread means that there is little point in only having some farms subject to BioMP's.

Council's main concerns are marine farmers adequately giving effect to the BioMP in all aspects of their operation (including those that may not be documented) and ensuring that all their contractors also abide by the BioMP.

Council considers that the only exception should be where there is an agreed alternative method of providing for marine biosecurity. That could be through an operative Regional Pest Management Plan, Pathway Management Plan, industry wide management plan, product stewardship requirement or other instrument.

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**Question 34:**

Is the deadline of 31 January 2025 appropriate, and why?

Marine pests are spreading rapidly throughout the country and threaten the marine farming industry. These provisions are needed as soon as possible and 2025 may be too late for some farms.

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**Question 35:**

Is a nationally consistent approach to BioMPs necessary to achieve an appropriate level of marine farm biosecurity nationally or should regional differences be accommodated?

A nationally constant approach is preferable. However, provision should be made for some regional variation. For example the existence of, and provisions in, Regional Pest Management Plans, Pathway Management Plans and Small Scale Management Plans under the Biosecurity Act will vary regionally as will regional council and industry capacity and therefore BioMP's may vary in content or in some places may not be required.

Consideration should be given to whether the BioMP's could be more efficiently imposed through RMA regulation under section 360 of the Resource Management Act 1991. Under the regulations consent holders could be required to comply with the requirement without Council having to review conditions of individual coastal permits.

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**Question 36:**



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Do you think the BioMP template in MPI's Aquaculture Biosecurity Handbook covers all the matters that are needed? What if any changes would you make and why? What level of detail do you think is needed for BioMPs to be effective?

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While the template generally covers most risk areas, it is very light on detail and would not provide a comprehensive checklist of matters to be addressed. In particular the management of pathways such as vessel maintenance and movements, deployment and movement of both spat and growing lines, farm floats and structures, product movement, waste management, management of contractors with respect to training, surveillance and record keeping.

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**Question 37:**

Is requiring a BioMP using an NES under the RMA the best approach to nationally requiring a Biosecurity Management Plan for aquaculture?

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If possible, requiring BioMP's by regulation would be more cost effective and efficient for Councils and permit holders.

BioMP's may not be the best method mainly due to its limitations with monitoring and enforcement. Where a marine biosecurity breach occurs immediate response may be required and there is no time to seek court orders. However, Council considers that BioMP's are one tool in the toolbox and should be retained as a default.

Generally the Biosecurity Act is more targeted and direct for the management of pest species. It provides for a range of instruments including Regional Pest Management Plans, Pathway Management Plans and Small Scale Management Plans. It also has more direct powers of surveillance and enforcement which provide for powers of entry, immediate directions to be given for an activity to cease, requirements to manage effects such as removing pests or risk goods such as vessels and lines and the ability to act on default if the owner does not comply within the time limits specified.

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**Question 38:**

How would regional councils certify, audit and enforce BioMPs? Could external professionals be used to provide the required skills and expertise?

This is a very difficult thing to achieve and there are potential issues of liability. While Council staff could certify a written document as achieving a particular standard and audit records or actions observed during a site visit they will not always be aware of every activity undertaken or decision made by marine farmers on the day and are not likely to be on site when an inappropriate decision is made.

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Exposure to a marine pest by an entire industry can come from one bad call such as moving a spat or growing lines which may be infested with a marine pest or missing a niche area on a vessel harvester which is infested and is moving between marine farms.

While regional councils can undertake all due care certifying and auditing a BioMP it will come down to the industry to commit to giving effect to that BioMP on a day by day basis and applying sound judgement based on pathway management principles.

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Yes external professionals can assist this situation and will be required in many situations where the regional council does not have the necessary skills available. However the same limitations will apply as to Council staff in that they will not be present on a remote marine farming sites 24/7 to ensure that good biosecurity management decisions occur 100% of the time.

We are very concerned that a Council who have certified and audited a BioMP could be held liable for a marine pest incursion brought about by decisions or activities outside its control, undertaken by an unknown person, in a remote location, at an unknown time (perhaps years before) which may have resulted in a marine pest being transferred.

At the end of the day the industry must take responsibility for its own actions and failure to do so will impact directly on them.

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#### **Question 39:**

Is it appropriate for existing coastal permits to be reviewed and required to prepare BioMPs in order to comprehensively address biosecurity risks to industry and New Zealand's wider marine environment? If not, why not?

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Council considers it appropriate to require bioMP's because it only requires one marine biosecurity failure to impact on a wide area. Therefore if BioMP are introduced then all marine farms need to be subject to the same requirements. Failure to do so makes it inequitable for other marine farmers and a voluntary approach may as well be adopted. However, Council considers that a regulation may be a more efficient way of achieving the same result.

Reviewing all existing coastal permits would be a time consuming exercise for Council and an additional expense for the permit holder.

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#### **Question 40:**

Is marine farm monitoring and reporting as well as external auditing and enforcement of BioMP implementation and effectiveness justified? If not why not?

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The Top of the South Marine Biosecurity Partnership experience with assisting the marine farming industry to prepare marine biosecurity plans is that not all farmers are committed. Our experience is that even where specific direction has been



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issued by the industry itself concerning a marine biosecurity risk, that a small number of farmers ignore that direction placing the rest of the industry at risk.

If BioMP's are made mandatory they will need to include external auditing and enforced to a meaningful standard.

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**Question 41:**

Have the range of costs and benefits arising from the proposed national environmental standard, and who might bear the costs or receive the benefits, been accurately reflected? Are there any costs and benefits that have been overlooked?

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Our impression is that the costs of re-consenting are likely to be similar due to the discretionary activity status

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**Question 42:**

Are the estimates of costs and benefits accurate? Do you have information on costs and benefits that could assist the second stage of our assessment (of the impacts of the final proposal)? Do you have any information on costs and benefits that have not been quantified at this stage?

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Michael Nielsen

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**From:** Itty Nikolao [REDACTED]  
**Sent:** Tuesday, 8 August 2017 9:31 AM  
**To:** Mailbox\_Aquaculture  
**Subject:** Proposed National Environmental Standards of Marine Aquaculture - TARIT Submission

TARIT Reference No:TS82017/5  
8 August 2017



GHA Building, Ground Floor, 1108 Fenton Street, Rotorua 3010, Ph: 07 3463915

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Ministry of Primary Industries (MPI)  
Proposed National Environmental Standard of Marine Aquaculture

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TE ARAWA RIVER IWI TRUST (TARIT) ENVIRONMENTAL STRATEGIC GOALS

Whakamarohitia Nga Wai o Waikato

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INTRODUCTION: TARIT has its genesis in the Ngati Tuwharetoa, Raukawa and Te Arawa River Iwi Waikato River Act 2010. The Trust represents the three Te Arawa River Iwi; Ngati Tahu-Ngati Whaoa, Ngati Kearoa-Ngati Tuara, Tuhorangi - Ngati Wahiao, who assert manawhenua kaitiakitanga, ahi ka and mana whakahaere over the Waikato River and its tributaries that run through it's rohe.

TARIT is committed to environmental sustainability and strategic goals:

1. Mana Tangata: Enabling our people to participate in the restoration and protection of the Waikato River, tributaries and environs.
2. Mana Taiao: Implementing measures to restore and protect the Waikato tributaries and environs.
3. Mana Matauranga: Upholding tikanga preserving wahi tupuna and enhancing matauranga of Te Arawa River Iwi.

Statement of Intent: It has been useful to assess the Proposed National Environmental Standards of Marine Aquaculture, against our environmental plan and fisheries plan, including utilising the questions provided by Ministry of Primary Industries (MPI), and TARIT will remain neutral (to support or oppose and/or comment) until we have done some further analysis against our own plans; given our thoughts and top priorities are the quality and restoration of the mauri of the Waikato River, cultural traditional sites, ground water and the development of land use affecting water.

We would like to remain updated on any progress or changes and if you have any queries please, direct these through to Itania (Itty) Nikolao - Policy Analyst, [REDACTED]



**Itania (Itty) Nikolao**

Pou Tatari Kaupapa Here - Policy Analyst

E: [REDACTED]

M: [REDACTED]

O: [REDACTED]

[www.tarit.co.nz](http://www.tarit.co.nz)

**Te Arawa River Iwi Trust**

Ground Levell GHA Centre1108 Fenton Street | ROTORUA 3040





## Proposed National Environmental Standard for Marine Aquaculture Submission Template

We would like to hear your views on the proposed National Environmental Standard for Marine Aquaculture (NES: Marine Aquaculture).

Please feel free to use this template to prepare your submission. Once complete please email to [aquaculture@mpi.govt.nz](mailto:aquaculture@mpi.govt.nz).

As stated in section 8 of the discussion document, your submission must include the following information:

- your name and postal address, phone number, and email address (where applicable)
- the part or parts of the proposed NES you are submitting on
- whether you support or oppose the part or parts of the proposed NES
- your submissions, with reasons for your views
- any changes you would like made to the proposed NES
- the decision you wish the Minister for the Environment and the Minister for Primary Industries to make.

For more information about how to make a submission, please refer to section 8 of the discussion document: *Proposed National Environmental Standard for Marine Aquaculture*.

### Contact details

Name:

Richardt Prosch

Postal address:

PO Box 340, Picton 7250

Phone number:

[REDACTED]

Email address:

[REDACTED]

Are you submitting on behalf of an organisation? Yes [ X ] No [ ]

If yes, which organisation are you submitting on behalf of?

Te Ātiawa o Te Waka-a-Māui Trust



## ***Privacy Act 1993***

Where you provide personal information in this consultation MPI will collect the information and will only use it for the purposes of the consultation. Under the Privacy Act 1993 you have the right to request access and correction of any personal information you have provided or that MPI holds on you.

## ***Official Information Act 1982***

All submissions are subject to the Official Information Act 1982 and may be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

*Please indicate below if you wish your personal details to be withheld:*

☒ [ X ] Please withhold my personal details where submissions are made public

☒ [ X ] Please withhold my personal details in response to a request under the Official Information Act 1982

## **Questions for submitters**

The questions for submitters that are included throughout the discussion document are provided below. We encourage you to provide comments to support your answers to the questions below. You do not have to answer all questions for your submission to be considered.

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### **Question 1:**

Do you think an NES for marine aquaculture, including guidance material, is required? Alternatively do you think the status quo (where regional councils decide the activity status for replacement consents for existing marine farms and consents for change of species which can vary from controlled to non-complying) should be maintained?

Te Ātiawa is of the opinion that the Resource Management Act 1991 can always benefit from NES which seek to provide guidance to local government on nationally important issues. Aquaculture is significant to the national economy and iwi but there are elements of this NES which raise 'higher order' concerns for not just Te Ātiawa but iwi in general. If aquaculture operators and operations are responsible and environmentally conscious, then an NES would be beneficial.

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**Question 2:**

Do you think restricted discretionary is an appropriate status for replacement consents for existing marine farms? How would other activity statuses address the issues identified in section 3 of the discussion document?

Horses for courses. Te Ātiawa is not convinced that an overriding status brush is appropriate for all aquaculture given how some of the marine farms came into existence. On one hand, a controlled activity status may be appropriate for some existing farms but a discretionary status would be appropriate for others. The parameters offered for a restricted discretionary status offer some certainty but iwi matters still appear to be a grey area and this uncertainty causes us some concern as the NES is progressing without sufficient time to engage on this matter with iwi.

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**Question 3:**

Does the NES need to provide a full rule framework, including discretionary activity rules for those marine farms that cannot meet the requirements to be a restricted discretionary activity?

Te Ātiawa are of the opinion that an NES, to provide certainty should provide a full rule framework.

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**Question 4:**

Do provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional terms to define what qualifies to be a restricted discretionary activity?

Unable to respond to this question.

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**Question 5:**

Do you have any feedback on the analysis of effects contained in Appendix G?

There has been no consultation on the cultural matters and hence unable to comment. Cumulative effects needs support through this NES, it is unfair to applicants and Councils to give no support in this area as it will have significant impact on reconsenting.

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**Question 6:**

Should applications for replacement consents for existing marine farms where supplementary feeding occurs be treated differently under the proposed NES or not addressed at all?

Yes. Introduction of feed to support aquaculture is not passive aquaculture and raises different areas of concern for sustainable management.

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**Question 7:**

Do the provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional matters of discretion?

Yes.

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**Question 8:**

Should the extent of an acceptable overlap of existing marine farms with outstanding areas due to margins of error in mapping be defined?

If the intent is to provide guidance to councils and certainty to the industry, yes. This is a major issue of contention in Marlborough, and a major issue for re consenting. The NES should provide clear guidance.

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**Question 9:**

Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified, such as those listed in Policy 11 of the NZCPS 2010?

Policy 2, 3 and 11 should be identified and the NES give direction on how they are to be considered. If the NES does not, then the councils will interpret as they see fit.

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**Question 10:**

If so, what are these areas/values and what are the potential effects of concern caused by existing marine farms on those areas/values?

The NZCPS is an ambiguous document with many issues which contribute to making a decision about sustainable management within the coastal marine area. These are important aspects to consider when considering a coastal permit. If they are excluded then it could be argued that a re consenting did not look at all the relevant issues (i.e. Treaty of Waitangi). If the NES does not cover them then Councils will fill the void.

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**Question 11:**

Should the activity status be different for replacement consents for existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?

Yes. If they are identified as outstanding then there is a specific reason for this status and hence a re consenting is given much more scrutiny. The NES should provide supporting in directing what matters are relevant for consideration and what should be considered as having a more than minor or less than minor effect on the particular values that contribute to the outstanding value.

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**Question 12:**

Are there certain types of aquaculture for which replacement consent applications should be publicly notified?

No comment

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**Question 13:**

Are there advantages or disadvantages to allowing councils to take a more lenient approach that you would like us to be aware of?

No.

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**Question 14:**

Do you agree that the areas zoned specifically for aquaculture in Tasman and Waikato should be exempted from the provisions of the proposed NES relating to replacement consents for existing marine farms?

Yes.

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**Question 15:**

Do you agree that there are sites that should be recognised in the proposed NES because of their particular importance to aquaculture? If so, what sort of provisions do you think would be appropriate?

Yes, spat catching sites are more important and their effects are different from mainstream aquaculture. The provisions should represent this.

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**Question 16:**

Are there other ways in which the proposed NES could usefully recognise council's future planning processes?

Not to our knowledge. Councils should follow the NES and MPI be actively involved in any potential plan change of a council.

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**Question 17:**

What are your thoughts on the size restriction that is proposed to apply to realignments covered by the proposed NES?

Should not be a size limit and should reflect a wider issue of what the realignments are sought to achieve (i.e. a better environmental outcome?).

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**Question 18:**

Is there further guidance that should be provided in the proposed NES in relation to realigning existing marine farms?

Remove the period restricting realignment (i.e. 10 years), the 2/3 rule, the outstanding natural features/landscapes restriction. The important matter is whether the realignment is creating a better environmental outcome.

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**Question 19:**

Are there other specific matters that councils should be able to consider for applications to realign existing marine farms? Are the matters that have been identified all relevant?

Yes. Is the realignment going to achieve a better environmental outcome.

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**Question 20:**

Should the proposed NES address change in farmed species?

Yes. Farmed species is different to consented species. Many farms are consented for multiple species but have only farmed one. It is important that the NES address this aspect in detail.

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**Question 21:**

Should the proposed NES limit the species it relates to?

Yes. The NES should only apply to species already consented on the specific farm. Any new species should be the subject of a new consent (i.e. biosecurity, local effect concerns).

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**Question 22:**

Are the categories based on change in structure an appropriate approach? If not, can you suggest any other approach that might be suitable?

No. Those activities which are not passive farming (i.e. require feed) should be separated from this are passive farming. There is a difference in effects.

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**Question 23:**

Are there any other categories [that should be considered for the change of species provisions]?

Unable to comment.

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**Question 24:**

Should herbivorous finfish be treated differently from carnivorous finfish?

No.

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**Question 25:**

Is restricted discretionary an appropriate status for most changes in species?

Yes.

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**Question 26:**

Should spat catching farms be excluded [from the change of species provisions]?

Yes. Their effects are short term and less than grow-out farms.

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**Question 27:**

Are there any other forms of farming or species that should be excluded [from the change of species provisions]?

Unable to comment.

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**Question 28:**

Do you have any feedback on the scope of matters of discretion?

If a farm is existing, it will not lapse. Tangata values are provided for but not specified. This needs to be consulted on with iwi. If the reef/biogenic habitat is being adversely affected, the restriction should not be limited to 'significant' adverse effects.

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**Question 29:**

Should change of species involving finfish require additional matters of discretion?  
Yes. Change in volumes of finfish feed discharges.

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**Question 30:**

Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified?

See answer to question 9.

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**Question 31:**

Should the activity status be different for changing species on existing marine farms in outstanding natural features, outstanding natural landscapes and areas of outstanding natural character? If so, what should it be?

No. The criteria for assessing the effects should be more specific and the NES provide guidance on making a decision on the overall effect.

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**Question 32:**

Are there certain species or types of species where consent applications should be publicly notified?

No comment.

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**Question 33:**

Do you think it is necessary for all marine farms to prepare, implement and keep up to date Biosecurity Management Plans (BioMP)? What concerns would you have if it were required? What (if any) exceptions should be made and why?

No comment.

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**Question 34:**

Is the deadline of 31 January 2025 appropriate, and why?

No comment.

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**Question 35:**

Is a nationally consistent approach to BioMPs necessary to achieve an appropriate level of marine farm biosecurity nationally or should regional differences be accommodated?

Both. It is important to have a national lead but there are also regional differences that need to be accommodated.

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**Question 36:**

Do you think the BioMP template in MPI's Aquaculture Biosecurity Handbook covers all the matters that are needed? What if any changes would you make and why? What level of detail do you think is needed for BioMPs to be effective?

No Comment.

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**Question 37:**

Is requiring a BioMP using an NES under the RMA the best approach to nationally requiring a Biosecurity Management Plan for aquaculture?

Yes.

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**Question 38:**

How would regional councils certify, audit and enforce BioMPs? Could external professionals be used to provide the required skills and expertise?

MPI could certify individuals which must be recognised by councils.

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**Question 39:**

Is it appropriate for existing coastal permits to be reviewed and required to prepare BioMPs in order to comprehensively address biosecurity risks to industry and New Zealand's wider marine environment? If not, why not?

Yes.

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**Question 40:**

Is marine farm monitoring and reporting as well as external auditing and enforcement of BioMP implementation and effectiveness justified? If not why not?

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Yes. Biosecurity is the responsibility of everyone that undertakes aquaculture.

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**Question 41:**

Have the range of costs and benefits arising from the proposed national environmental standard, and who might bear the costs or receive the benefits, been accurately reflected? Are there any costs and benefits that have been overlooked?

The costs on iwi have been mentioned but overlooked also the potential impacts of the customary title applications currently underway.

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**Question 42:**

Are the estimates of costs and benefits accurate? Do you have information on costs and benefits that could assist the second stage of our assessment (of the impacts of the final proposal)? Do you have any information on costs and benefits that have not been quantified at this stage?

No comment.

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**Please use the space below to provide any additional comments you may have, and if continuing an answer from another question please indicate the question number.**

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Te Ātiawa o Te Waka-a-Māui Trust represents all those members of Te Ātiawa who whakapapa to Te Tau Ihu. Te Ātiawa holds manawhenua manamoana across Te Tau Ihu and holds kaitiaki across the top of the south.

Te Ātiawa also hold a number of coastal permits for aquaculture and considers that human activities such as aquaculture, when operated correctly, can act in accordance with sustainable management.

This proposed NES will impact on the activities of Te Ātiawa. Questions have been answered above regarding specific issues of concern but we use this opportunity to discuss a specific concern not discussed in the body of this document.

Overall, we consider that this NES is hurriedly put together and has not adequately incorporates or addresses the concerns of Te Ātiawa or iwi in general. We consider that the NES is also incredibly inflexible and will be of limited use in providing certainty within our rohe.

Our biggest concern regards the continued devolution of responsibility of decision making powers to regional authorities who refuse to acknowledge our status as a Treaty of Waitangi partner and continue to treat us as just another affected party. We are constantly engaged in disputes with regional authorities across Te Tau Ihu about our recognition status. Until that matter is clarified with regional authorities, our faith in robust decision-making will remain low.

The proposed NES does not account for the modifications and improvements within the industry and progressive discussions with regional authorities regarding aquaculture improvements. This NES is reinforcing a status quo and not an improvement for environment outcomes and aquaculture certainty.

Yet again, the aquaculture industry has got what they asked for but not what they want. For example, the Marlborough District Council is looking to incentivise realignment of aquaculture further offshore than current. This would provide a better environmental outcome (more coastal space inshore) and a better aquaculture outcome (farms in deeper water) but such would be outside the ambit of this NES. Therefore, the industry must choose whether to support certainty (as much as can be derived from a restricted discretionary activity) or seek better environmental outcomes (i.e. going with the MDC approach).

It was hoped that the NES would provide flexibility and certainty for applicants in renewals. Instead the NES is locking farmers into the 'like for like' approach. Many of the existing farms were sought and gained during the infancy of the industry, where many were trying to apply the 'number 8 wire' approach to farming without much environmental information. Much has changed since that time and many

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farmers would agree that a rationalising of industry/farms would benefit both environmental and aquaculture outcomes. This NES does not allow this, instead requiring applicants to seek the same historical (and not necessarily the best) farm location, configuration, and composition.

In its current form, iwi values are a place holder and nothing more. Consultation has not progressed to a point where the values have been identified let alone addressed. Yet, the NES is progressing with all vigour towards a conclusion which indicates to us that iwi values considerations are not as important as those of the aquaculture industry. Te Ātiawa hence has serious concerns about the validity of this NES and the potential for conflict with Treaty of Waitangi obligations and Deed of Settlement responsibilities.

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8 August 2017

**TE OHU KAIMOANA SUBMISSION**

**on 'Proposed National Environmental Standard for Marine Aquaculture'**

**Introduction**

1. Te Ohu Kaimoana ("Te Ohu") welcomes the opportunity to submit on the proposed National Environmental Standard for Marine Aquaculture ("NES").
2. Te Ohu is the corporate trustee of both the Te Ohu Kai Moana Trust (the Māori Fisheries Trust) and the Māori Commercial Aquaculture Settlement Trust (known as the Takutai Trust). The purpose of Te Ohu is to advance the interests of iwi both individually and collectively, primarily in the development of fisheries and aquaculture.
3. A draft of this submission was circulated to iwi, and the feedback received has been incorporated. This submission is not intended to override any individual iwi submissions.
4. In 2004 the Crown enacted the Māori Commercial Aquaculture Claims Settlement Act ("MCACSA"), which provided full and final settlement of Māori commercial aquaculture claims since 21 September 1992. The Act required Iwi Aquaculture Organisations to receive settlement assets representative of 20% of all aquaculture space approved in the coastal marine area since 21 September 1992, either by way of cash or authorisations to apply for space. Because all approval of aquaculture space takes place under the Resource Management Act 1991 ("RMA"), all settlements are regional, based on regional council boundaries.
5. Given the rights afforded to Māori under the MCACSA and their own development aspirations, iwi have a strong interest in the future of the aquaculture industry and in there being increased certainty for the re-consenting of marine farms. At the same time, Māori as kaitiaki have an obligation to ensure that any activity undertaken in the coastal marine area is both environmentally sustainable and culturally appropriate.
6. Te Ohu is generally supportive of the proposed NES as a means of achieving these aims.
7. While Te Ohu is generally supportive of the proposed NES, this advice proposes a number of recommendations that strengthen the achievement of those outcomes.
8. This submission is divided into the following parts:
  - a. Part one: overall support for proposed NES
  - b. Part two: feedback on the four key elements of the proposed NES
    - i. Restricted discretionary status for most replacement consents and changes of species on existing marine farms

- ii. Most applications for replacement consents will not be publicly or limited notified (other than to the holders of Statutory Acknowledgements)
- iii. Small scale boundary realignments of existing marine farm of less than 10 hectares
- iv. Biosecurity management plans

**Part One: overall support for the proposed NES**

9. Overall Te Ohu supports the stated objective for developing the proposed NES and considers that, if implemented, it will provide a more consistent and efficient regional planning framework for the re-consenting of existing marine aquaculture activities and on-farm biosecurity management, while supporting sustainable aquaculture within environmental limits.
10. Iwi are highly invested in the future of the aquaculture industry given iwi hold significant aquaculture interests, including both Treaty settlement assets (Article II) as well as Article III investments. But further to that, iwi recognise the enormous economic and social benefits aquaculture provides to regional communities. As such, iwi are supportive of the proposed NES as a means to stabilise the aquaculture industry and offer investors greater certainty and confidence to invest in better use of existing space, value-added production and new technologies.
11. We consider the more streamlined process for re-consenting and realigning existing marine farms under 10 hectares as well as adding new species that is provided by the proposed NES is a good move towards ensuring increased certainty and consistency for existing farmers. We also consider that classifying the majority of these activities as “restricted discretionary” is appropriate, given that the matters of discretion available to councils will still allow potential risks to be identified, assessed and managed.
12. Te Ohu also supports that the replacement consent and change of species provisions will not apply to existing farms in Tasman Aquaculture Management Areas and Waikato Wilsons Bay as this would apply a more stringent regime than currently operating. These areas are specifically zoned for aquaculture and have an overall planning and consenting structure that aims to manage cumulative effects. As such, it is neither appropriate nor necessary for the proposed NES to apply in these regions. However, if the second generation plans for these regions propose or provide replacement consents and change of species provisions that are more stringent than the provisions contained in the proposed NES, Te Ohu considers the NES should apply.

**Part Two: issues for consideration**

*Restricted discretionary status for most replacement consents and the change of species on existing marine farms*

Replacement consents

13. Te Ohu supports the “restricted discretionary activity” status for most applications for new consents for existing farms. We accept that the majority of marine farms are appropriately situated and have either undergone adequate assessments or had appropriate monitoring to show that they were situated in areas suitable for aquaculture.

14. We note that the proposed NES would allow for councils to set more lenient activity classifications for existing farms through their regional planning processes, if they choose to after consultation with their communities. Te Ohu is supportive of regions proactively planning for aquaculture and supports councils classifying aquaculture as a controlled activity where the community as a whole has decided that it is appropriate to do so. Regardless of the activity classification given however, Te Ohu considers that iwi with Statutory Acknowledgements should be notified of any applications for replacement consents.

15. Te Ohu is supportive of the list of effects currently considered to be relevant for council discretion:

- timing of occupation
- continued reasonable public access and navigational safety
- adverse effects on seabed features;
- marine mammal and seabird interacts with marine farms;
- effects on biosecurity; and
- effects of noise, rubbish and debris.

The matters listed are those councils should exercise discretion over in any consent. These effects should appear in any final NES.

16. We also endorse the additional effects noted on page 28 of the NES when considering marine farms where supplementary feeding is a fundamental feature of their operation.

17. We would object to other matters of discretion being added to any final NES without those matters first being consulted on, excepting the additional matter of discretion proposed below. That is because the draft NES itself raised and suggested the effects on tangata whenua values.<sup>1</sup>

Tangata whenua values

18. In addition to the matters of discretion listed above, Te Ohu considers it appropriate that tangata whenua values be included as a matter to exercise discretion over. However, based on iwi experience we are not confident that regional councils are currently well placed to understand tangata whenua values and give meaningful effect to them.

19. To better address these matters we consider that the iwi authorities of a region should appoint a person to represent the views of tangata whenua through liaison with councils. A tangata whenua representative would be the best person to convey Māori views to regional councils given that iwi Māori have a wide range of social, economic and cultural aspirations and the ways these different aspirations intersect is highly dependent on individual circumstances. This means that tangata whenua values cannot be neatly expressed in a checklist for councils to briefly consider.

20. Te Ohu considers it better for councils to directly hear from a tangata whenua representative about the concerns of iwi. We consider councils should work proactively with the tangata whenua representative in their region in order to ascertain and take into account the views of iwi with respect to the re-consenting of existing farms, as this will be beneficial for both applicants and Māori.

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<sup>1</sup> Proposed National Environmental Standard for Marine Aquaculture, page 64.

21. We would expect this to be one of the matters expressly dealt with by councils and the iwi authorities of each region as part of the development of second generation coastal plans.
22. However, with a list of known sites in each region, we consider that councils should work proactively ahead of the plan process to better allow iwi authorities to consider the full list together rather than a reactive single application by single application approach. This would be more cost-effective for everyone – applicants, councils, iwi authorities and the tangata whenua representative. We consider the Ministry should emphasise this through its good practice information.
23. As a bottom line practice required by the NES we propose that:
  - a. Regional council staff be directed to work with the tangata whenua representative nominated by the iwi authorities for their region. Council staff would notify them as soon as practicable that an application for a replacement resource consent has been received, so that they can then liaise with all relevant iwi about their views on the particular site;
  - b. The tangata whenua representative would convey any social, economic and cultural concerns that iwi may have about a particular site to the relevant council;
  - c. Regional council staff would take the advice of the tangata whenua representative into account when assessing an application for a replacement resource consent;
  - d. Regional councils would pay for the time of an iwi appointed representative by providing them with a consultancy fee; and
  - e. The position would be similar to that provided for by section 40(1)(a) of the Resource Legislation Amendment Act 2017 (Schedule 1, Part 4, section 40 of the RMA).

### Sites of importance

24. Te Ohu agrees that there are certain sites that should be recognised in the proposed NES because of their particular importance to aquaculture, such as the spat farms at Wainui Bay in Golden Bay and in Aotea Harbour. We consider it would be appropriate for those sites to be given “controlled activity” status. We note that, as was mentioned above, iwi with Statutory Acknowledgements should still be notified of any applications for replacement consents at any sites deemed to be of particular importance to aquaculture.
25. Te Ohu considers it appropriate that existing farms located in areas defined as outstanding natural features, outstanding natural landscapes or areas of outstanding natural character be given “restricted discretionary activity” status. The impact those farms have on those outstanding areas should be considered as a matter of discretion. In order to settle questions around the impacts of these farms in a timely matter, we consider the proposed NES should require all councils to undertake an assessment similar to that done by Auckland Council through the Auckland Unitary Plan, whereby they assessed the effects of existing marine farms on the values of outstanding areas. Councils should be required to assess the impact that existing marine farms, which have structures that overlap with outstanding areas by more than 5% above water, have on the values of those areas.

### Change of species

26. Te Ohu considers it appropriate for the proposed NES to address change in species as this is a meaningful way to promote innovation within the aquaculture industry. We consider there is benefit in the way different types of species change have been categorised in the proposed NES,



and support the restricted activity classification as well as the different matters of discretion that would apply to each category. We are especially supportive of the broad discretion councils will have to consider whether or not to grant a change of species in Categories 3 and 4, given there is little evidence of the environmental impacts of these species.

27. Te Ohu also supports the proposal not to provide for a change in species to finfish, such as salmon, or other fed species (except for pāua as it requires minimal feeding).
28. Spat farms should not be excluded from the change of species provisions of the proposed NES. We disagree with the assertion that 'spat catching farms have considerably different effects from a production farm'<sup>2</sup>, and consider that a change of species from spat farming can be appropriately dealt with within the matters of discretion provided for by the proposed NES.

*Most applications for replacement consents will not be publicly or limited notified (other than to the holders of Statutory Acknowledgements)*

29. The proposed NES states<sup>3</sup>:

*"Some Statutory Acknowledgements across the country recognise the relationship of tangata whenua with the coastal marine area. Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area could be provided for through limited notification to them of applications for replacement consents for existing marine farms, if regional councils determined that they were affected parties." (Emphasis added)*

30. Te Ohu appreciates that this paragraph is framed as it is to reflect the wording of section 95E of the RMA. However, any Treaty settlement legislation containing a Statutory Acknowledgement guarantees the relevant iwi the right to be notified of any applications for replacement consents. Therefore, any iwi that holds a Statutory Acknowledgement for an area subject to an application for a replacement consent should automatically be recognised as an 'affected party' and there should be no discretion for councils to determine otherwise. We therefore propose the wording be changed to:

*"Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area should be provided for through limited notification to them of applications for replacement consents for existing marine farms"*

31. Provided that the concerns above are addressed, Te Ohu supports applications for replacement consents being non-notified. Non-notification of applications for replacement consents is a crucial feature of the proposed NES. If the proposed NES were to provide for public notification, then it would hinder the Standard's ability to provide a more consistent and efficient regional planning framework. Te Ohu is satisfied that the wider community would still have ample opportunity to raise concerns about the impact of aquaculture through participation in the development of second generation coastal plans.

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<sup>2</sup> Proposed National Environmental Standard for Marine Aquaculture, page 36.

<sup>3</sup> Proposed National Environmental Standard for Marine Aquaculture, page 31.

## *Small scale boundary realignments of existing marine farm of less than 10 hectares*

32. Te Ohu supports the provisions of the proposed NES that relate to the realignment of existing farms less than 10 ha, where those farms are located over seabed habitat with important values (such as a reef), or within areas that are no longer considered to be entirely suitable for marine farming. Allowing the realignment of up to 1/3 of these farms will provide better outcomes for the environment, productivity and the community.
33. The size restriction proposed to apply to realignments covered by the proposed NES is appropriate, given that it will allow for the realignment of 95% of existing farms. Further, the small number of farms that are larger than 10 ha were generally sited appropriately at the time consent was granted and are therefore unlikely to require realignment.

## *Biosecurity management plans*

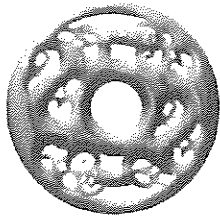
34. Te Ohu agrees that all marine farms should be required to prepare, implement and keep up to date Biosecurity Management Plans and considers that the deadline of 31 January 2025 is appropriate.
35. Councils should engage with the license holders for those marine farms that will not expire before 31 January 2025 well before that deadline and look to have those farms prepare Biosecurity Management Plans as soon as is practically possible.
36. Te Ohu notes that MPI will list the matters to be included in a Biosecurity Management Plan in a separate document. While we would have preferred for the list of matters to be included to have already been finalised, we consider that the proposed topics listed on page 41 of the consultation document are useful, those being:
- stock movements and containment
  - waste management;
  - stock feed and feeding;
  - water supply and monitoring;
  - equipment, vehicles and vessels;
  - people and property management;
  - staff training and education;
  - record keeping;
  - contingency plans and measures;
  - monitoring and reporting; and
  - auditing.

We welcome the opportunity to discuss anything in this document, should you require clarification.

Naku noa, nā,



Laws Lawson  
Principal Advisor



Te Roroa

4 August 2017

**Re: Submission in response to the Proposed National Environmental Standard (NES) for Marine Aquaculture**

Tena koe,

Thank you for the opportunity to provide a response to the Proposed NES for Marine Aquaculture.

Te Roroa supports the implementation of a NES, however there are aspects of the proposal with which Te Roroa would welcome the opportunity to provide direct input into any decision-making processes. Three key issues will be discussed in this submission which are:

- The introduction of new or taonga species into a region where they do not naturally occur,
- Biosecurity and potential genetic effects of existing stock,
- Tangata whenua values as part of the consultation process for the proposed NES.

#### Introduction of New and Taonga Species

From the perspective of existing aquaculture, this is not an issue facing Te Roroa at present. We understand that the presence of aquaculture infrastructure on the West Coast of Northland is logistically very difficult. However, these currents, wave action, and prevailing winds which make aquaculture prospects nearly impossible, are the environmental factors which drive recruitment of our taonga species and provide the unique environment for their survival.

For this discussion one of our taonga species, toheroa (*Paphies ventricosa*), will be used as an example. Commercial exploitation and the subsequent development of a canning industry covered a period from approximately 1890-1970 on Ripiro Beach, where peak harvesting of 77 tonnes in 1940 was recorded (<sup>1</sup>Redfearn, 1974). Since then populations of toheroa have been sporadic and continue to struggle to this day. As a part of the Te Roroa Deed of Settlement, Te Roroa has a Deed specifying first rights of refusal (FRF) to toheroa quota should they be introduced into the Quota Management System (QMS). The opportunity for such an inclusion is unlikely at any point in the future, however Te Roroa, as mana whenua, have an obligation to do as much as we can to care for our current stocks.

Toheroa management and enhancement is an objective Te Roroa are addressing at present, and the potential for toheroa aquaculture is an opportunity we can not ignore. While not currently in the position to implement any aquaculture plans at present, Te Roroa would expect that future aspirations be provided for as matters of discretion for future consent applications. This would also be the

expectation for other taonga species such as, but not exclusively, kutai (green-lipped mussels), tuatua and paua.

#### Biosecurity and Potential Genetic Effects

The presence of kauri die-back disease and the potential for myrtle rust disease within Waipoua Forest has made biosecurity a priority issue for Te Roroa at present. We are developing capacity and capability on the ground by developing operational relationships with various multi-disciplinary agencies and Te Roroa are being proactive in identifying other resources, such as toheroa, which may be susceptible to foreign pathogens. Translocation of toheroa stock has been a management tool utilised in the past, however this practice was mainly localised. The potential for genetic mixing with stock which do not naturally occur within the Te Roroa area of interest is perceived as a threat to the current wild stock. Te Roroa supports the development of research projects which focus on disease identification and the potential effects they have on current stocks.

Although biosecurity and genetic effects are not current issues due to the lack of aquaculture infrastructure at present, Te Roroa maintain the position of managing and enhancing our current wild stocks. Te Roroa also supports the adoption and implementation of effective and nationally-consistent standards for biosecurity measures on every marine farm.

Tangata whenua values as part of the consultation process for the proposed NES.

Although Te Roroa are an iwi with no current aquaculture interests, we are very supportive of the inclusion of tangata whenua values into the consultation process. There are many iwi involved in aquaculture activities and believe they should take a lead role in developing a framework for MPI to use, however direct input from Te Roroa would be a secondary process if required.

Thank you for the opportunity to provide a submission to the proposed NES for marine aquaculture. Te Roroa are very supportive of the process and the direction MPI is taking to improve environmental decision making in the aquaculture industry.

Naku noa na,



Taoho Patuawa  
Te Roroa Centre of Excellence and Environs Support  
Te Roroa Commercial Development Company  
1 River Rd, Waipoua

<sup>1</sup> Redfearn P. 1974. Biology and Distribution of the Toheroa, *Paphies (Mesodesma) ventricosa* (Gray). Fisheries Research Bulletin No. 11. New Zealand Ministry of Agriculture and Fisheries. 51 p.

Submission No:0077

He tono nā



**Te Rūnanga o NGĀI TAHU**

ki

**MINISTRY FOR PRIMARY INDUSTRIES**

e pā ana ki te

**PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR MARINE AQUACULTURE**

Whā/August 2017

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## Contact Person

Rakihia Tau | General Manager – Strategy and Influence | Te Rūnanga o Ngāi Tahu

████████████████████ | Phone ██████████ | 15 Show Place, Addington | Christchurch

## 1. EXECUTIVE SUMMARY

- 1.1. Te Rūnanga o Ngāi Tahu (**"Te Rūnanga"**) is aware that the current management framework for marine aquaculture has processes that are both complex and inefficient. These processes have proved difficult to build confidence to invest in the industry.
- 1.2. With aquaculture assets received by iwi through the Māori Commercial Aquaculture Claims Settlement Act, it has been a difficult choice for iwi to consider reinvesting in the aquaculture industry due to the uncertainty of return on investment. The alternative for many has been to receive the cash equivalent and invest this into areas that are less risky.
- 1.3. For Te Rūnanga, the preference has been to secure aquaculture space through the settlement. However, for a number of reasons such as identifying viable space and iwi boundary disputes, Te Rūnanga have been unable to develop space so far. The approach Te Rūnanga have taken has been one of securing space for future generations. Therefore moving forward, it will be important that there are national mechanisms that enhance certainty for those wanting to invest in the aquaculture industry.
- 1.4. In saying that, it is also important that our other interests are not overlooked specifically, our cultural, social and environmental interests. Like always, Te Rūnanga will need to balance these different interests across our takiwā.
- 1.5. Te Rūnanga supports the general intent of the Proposed National Environmental Standard for Marine Aquaculture (**"the Proposed NES"**) as there is a shift to a framework that (1) seeks to provide a more efficient and certain consent process for managing marine farms within environmental limits; and (2) implements a nationally consistent framework for biosecurity management on all marine farms.
- 1.6. While these changes are positive, Te Rūnanga want to ensure that the interests of whānau, hapū and iwi are adequately provided for in the Proposed NES.
- 1.7. It will be important that appropriate mechanisms are put in place to safeguard the interests of our people. Te Rūnanga notes that the Proposed NES should in no way be appropriated in a lesser context to what tangata whenua already have, rather, they should be enhanced to ensure protection remains and continues in perpetuity.
- 1.8. With the recent outbreak of *Bonamia Osetrae* in Big Glory Bay, Te Rūnanga support the requirement for all marine farms to prepare, implement and regularly update Biosecurity Management Plans by 31 January 2025. This will assist with minimising the risks of incursions as well as managing incursions into the future.

## 2. OVERALL RECOMMENDATIONS

- 2.1. The following recommendations are made by Te Rūnanga on the Proposed NES:

## ***Replacement Consents and Realignment of Existing Farms – Tangata Whenua Values***

- Consent authorities continue to have regard to Statutory Acknowledgement Areas when determining whether Ngāi Tahu is an affected person at the time of the notification decision on resource consent applications.
- Tangata whenua values are matters that a Council should be required to consider when using their discretion to grant replacement consents for existing marine farms or realignment of small farms.
- The draft wording of the Proposed NES needs to ensure flexibility to allow iwi and hapū the ability to articulate what their tangata whenua values are, rather than being limited to only having the ability to express their cultural values, such as wāhi tapu/taonga. Potential wording for the Proposed NES could include: *“Consideration of tangata whenua (social, economic, cultural, environmental) values as expressed by local iwi and hapū within the region (in recognition of the Treaty of Waitangi partnership between iwi and the Crown).”*

## ***On-farm biosecurity – biosecurity management plans***

- Support the proposal that all marine farms would need to prepare, implement and regularly update Biosecurity Management Plans by 31 January 2025.
- Support the requirement that new farms or replacement consents for existing marine farms would need to include a Biosecurity Management Plan that meets specific criteria.
- Consider the development of bay-wide biosecurity management plans to assist with managing efficiencies.

### **3. TE RŪNANGA O NGĀI TAHU**

3.1. This response is made on behalf of Te Rūnanga. Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu whānui and was established as a body corporate on 24 April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (**“the Act”**).

3.2. We note the following relevant provisions of our constitutional documents:

Section 3 of the Act States:

*“This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act.”*

Section 15(1) of the Act states:

*“Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.”*

3.3. The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interests.



3.4. Te Rūnanga respectfully requests that the Ministry for Primary Industries accord this response the status and weight due to the tribal collective, Ngāi Tahu whānui, currently comprising over 55,000 members, registered in accordance with section 8 of the Act.

3.5. Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

## 4. TE RŪNANGA INTERESTS IN THE PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR MARINE AQUACULTURE

4.1. Te Rūnanga notes the following interests in the Proposed NES:

### *Treaty Relationship*

- Te Rūnanga have an expectation that the Crown will honour Te Tiriti o Waitangi and the principles upon which the Treaty is founded.
- The management of the environment and resources within the takiwā, for which Ngāi Tahu Whānui have kaitiaki responsibilities and maintain rangatiratanga status, must be consistent with the principles of Te Tiriti o Waitangi.

### *Kaitiakitanga*

- In keeping with the kaitiaki responsibilities of Ngāi Tahu Whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, protecting taonga species and mahinga kai resources for future generations.
- Ngāi Tahu Whānui are both users of natural resources, and stewards of those resources. At all times, Te Rūnanga is guided by the tribal whakataukī: “*mō tātou, ā, mō kā uri ā muri ake nei*” (for us and our descendants after us).

### *Whanaungatanga*

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu Whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.
- 4.2. Te Rūnanga has a specific interest in environmental and natural resource management by virtue of the Act. The Act provides for Ngāi Tahu and the Crown to enter into an age of co-operation. An excerpt of the Act is attached as **Appendix One**, as a guide to the basis of the post-Settlement relationship which underpins this submission.
- 4.3. The Crown apology to Ngāi Tahu recognises the Treaty principles of partnership, active participation in decision-making, active protection and rangatiratanga.
- 4.4. With regards to the Ngāi Tahu takiwā, Section 5 of the Act statutorily defines those areas “*south of the northern most boundaries described in the decision of the Māori*

*Appellate Court ...” which in effect is south of Te Parinui o Whiti on the East Coast and Kahurangi Point on the West Coast of the South Island.*

- 4.5. Section 2 of the Ngāi Tahu Claims Settlement Act 1998 statutorily defines the Ngāi Tahu claim area as being:

*“the area shown on allocation plan NT 504 (SO 19900), being—*

*(a) the takiwā of Ngāi Tahu Whānui; and*

*(b) the coastal marine area adjacent to the coastal boundary of the takiwā of Ngāi Tahu Whānui; and*

*(c) the New Zealand fisheries waters within the coastal marine area and exclusive economic zone adjacent to the seaward boundary of that coastal marine area;—*

*and, for the purposes of this definition, the northern sea boundaries of the coastal marine area have been determined using the equidistance principle, and the northern sea boundaries of the exclusive economic zone have been determined using the perpendicular to the meridian principle from the seaward boundary of the coastal marine area (with provision to exclude part of the New Zealand fisheries waters around the Chatham Islands).”*

(See the map attached as **Appendix Two**)

## **5. CHANGES TO THE PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR MARINE AQUACULTURE**

### **Replacement Consents and Realignment of Existing Farms – Tangata Whenua Values**

- 5.1 Te Rūnanga acknowledges that to provide farmers with certainty and to encourage ongoing investment in the industry and therefore into the regions, it would be beneficial if applications for replacement resource consents for existing marine farms are processed as non-notified, restricted discretionary activities, as long as the application is for the same location, space and structure as the existing marine farm.
- 5.2 Te Rūnanga can also see the efficiencies that can be gained by Councils having the ability to realign small existing farms through a restricted discretionary activity.
- 5.3 However, the concern for Te Rūnanga is that the consultation document stipulates that a council’s discretion is limited to: adverse effects on seabed features, marine mammals and seabirds, public access and navigation, biosecurity and management of rubbish, noise and debris. In Te Rūnanga’s opinion a council’s discretion should also be extended to include statutory acknowledgements and tangata whenua values.

## ***Statutory Acknowledgements***

- 5.4 Te Rūnanga recognises that the Proposed NES will be required to have regard to Statutory Acknowledgements. Te Rūnanga assumes this means that holders will continue to be notified when applications are received within, adjacent to, or affecting Statutory Acknowledgement Areas.
- 5.5 There are 64 Statutory Acknowledgements that are within the Ngāi Tahu Takiwā. These Statutory Acknowledgements significantly enhance Ngāi Tahu's ability to incorporate Māori values into the management of the environment.
- 5.6 As kaitiaki, Te Rūnanga find it is important for Ngāi Tahu to protect these acknowledgements by remaining informed about any decisions or applications that are likely to affect any of the 64 Statutory Acknowledgements. Te Rūnanga is of the view that this type of notification should remain and continue in perpetuity.
- 5.7 Te Rūnanga also find it essential that all relevant authorities must continue to have regard to Statutory Acknowledgements when determining whether Ngāi Tahu is an affected person or has an interest in proceedings.
- 5.8 Te Rūnanga further find that all regional policy statements, regional plans and district plans must continue to attach information recording all Statutory Acknowledgements which in turn, sets out those acknowledgements in full.

## ***Tangata Whenua Values***

- 5.9 In the consultation document *“Proposed National Environmental Standard for Marine Aquaculture”* and consultation meetings, the Ministry for Primary Industries have expressed that they are seeking feedback on how tangata whenua values might be best expressed in the Proposed NES.
- 5.10 For Te Rūnanga, too often Tangata Whenua values are limited to cultural related matters such as wāhi tapu/taonga. Whilst iwi and hapū have a strong desire to protect these interests, iwi and hapū can also be just as interested in the social, economic and environmental impacts of an activity on its local community.
- 5.11 What also needs to be recognised is that iwi and hapū are different and depending on their situation are likely to put different weightings on the matters raised above.
- 5.12 This is why it will be important for the national standard to allow for iwi and hapū from across Aotearoa to have the flexibility to express what their tangata whenua values are. It will then be the responsibility of the local council to be aware of these views and fully consider them when using their discretion in deciding whether an activity should go ahead.
- 5.13 Because an NES prevails over a rule in a plan, it is critical that proper recognition is given to statutory acknowledgements and tangata whenua values in the Proposed NES.

## **Recommendations**

### 5.14 Te Rūnanga recommends:

- Consent authorities continue to have regard to Statutory Acknowledgement Areas when determining whether Ngāi Tahu is an affected person at the time of the notification decision on resource consent applications;
- Tangata whenua values are matters that a Council should be required to consider when using their discretion to grant replacement consents for existing marine farms or realignment of small farms;
- The draft wording of the Proposed NES needs to ensure flexibility to allow iwi and hapū the ability to articulate what their tangata whenua values are, rather than being limited to only having the ability to express their cultural values, such as wāhi tapu/taonga. Potential wording for the Proposed NES could include: *"Consideration of tangata whenua (social, economic, cultural, environmental) values as expressed by local iwi and hapū within the region (in recognition of the Treaty of Waitangi partnership with the Crown)."*

## **On Farm Biosecurity – Biosecurity Management Plans**

- 5.15 Te Rūnanga support the proposal that all marine farms would need to prepare, implement and regularly update Biosecurity Plans by 31 January 2025. It also supports the requirement that new farms or replacement consents for existing marine farms would need to include a biosecurity management plan that meets specific criteria.
- 5.16 With the outbreak of *Bonamia Osterae* in Big Glory Bay, Stewart Island and the impact that this is having on the local community, it is important that all farms in the future are required to have a biosecurity management plan, so that future incursions can be minimised and managed efficiently into the future.
- 5.17 Consideration should also be given to the development of bay-wide biosecurity management plans. Te Rūnanga agree that individual farms should have their own plans, however, there may be efficiencies that can be generated by developing bay-wide management plans. Further consideration should be given to this option.
- 5.18 For future reference, the key will be to minimise the risk of biosecurity incursions on the aquaculture industry as the consequences can be detrimental to local communities.

## **Recommendations**

### 5.19 Te Rūnanga:

- Support the proposal that all marine farms would need to prepare, implement and regularly update Biosecurity Management Plans by 31 January 2025;
- Supports the requirement that new farms or replacement consents for existing marine farms would need to include a Biosecurity Management Plan that meets specific criteria;

- Consider the development of bay-wide biosecurity management plans to assist with managing efficiencies.

## APPENDIX ONE: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

### *Part One – Apology by the Crown to Ngāi Tahu*

#### *Section 6 Text in English*

The text of the apology in English is as follows:

- 1 The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb 'He mahi kai takata, he mahi kai hoaka' ('It is work that consumes people, as greenstone consumes sandstone'). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

*"This was the command thy love laid upon these Governors ... that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily ... and remember the power of thy name."*

The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

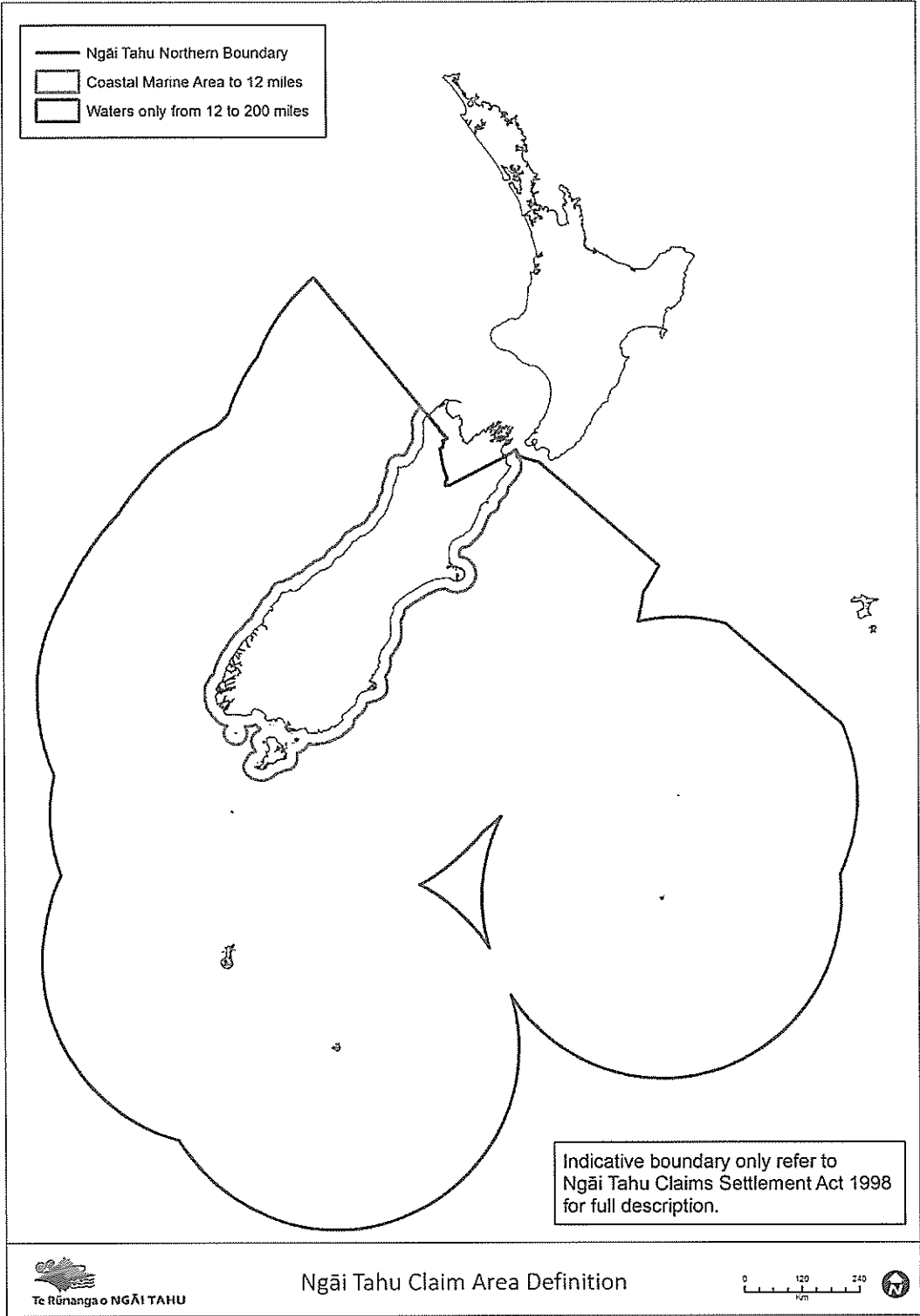
- 2 The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.
- 3 The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.
- 4 The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying 'Te Hapa o Niu Tirenī!' ('The unfulfilled promise of New Zealand'). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb 'Te mate o te iwi' ('The malaise of the tribe').
- 5 The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the

Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

- 6 The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.
- 7 The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."

APPENDIX TWO:      NGĀI TAHU TAKIWĀ





**Resource Management Unit**[www.ngatikuia.iwi.nz](http://www.ngatikuia.iwi.nz)

Ngāti Kuia Submission - 8 August 2017

'Proposed National Environmental Standard for Marine Aquaculture'

**Introduction**

1. Te Runanga o Ngāti Kuia Taiao/Environment (NKR) Unit is mandated to represent on a range of topics
2. Te Runanga o Ngāti Kuia, (TRoNK) participated in the Māori Commercial Aquaculture settlement Act
3. In 2004, the Crown enacted the Māori Commercial Aquaculture Claims Settlement Act ("MCACSA"), which provided full and final settlement of Māori commercial aquaculture claims since 21 September 1992. The Act required Iwi Aquaculture Organisations to receive settlement assets representative of 20% of all aquaculture space approved in the coastal marine area since 21 September 1992, either by way of cash or authorisations to apply for space. Because all approval of aquaculture space takes place under the Resource Management Act 1991 ("RMA"), all settlements are regional, based on regional council boundaries.
4. Given the rights afforded to Māori under the MCACSA and their own development aspirations, iwi have a strong interest in the future of the marine environment and the aquaculture industry
5. TRoNK is generally supportive of good collaborative outcomes
6. While TRoNK is generally supportive of the proposed NES, we have some concerns around sustainability and monopoly of aquaculture.
7. This submission is divided into the following parts
  - a. Part one: overall expectation for the proposed NES
  - b. Part two: feedback on the three key elements of the proposed NES
    - i. Restricted discretionary status for most replacement consents and changes of species on existing marine farms
    - ii. Most applications for replacement consents should still go through the standard section 95e process
    - iii. Biosecurity management plans

**Resource Management Unit**PO Box 1046, Blenheim 7201  
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**Part One: overall support for the proposed NES**

8. Overall Ngāti Kuia does not support the stated objective for developing the proposed NES but considers that, if implemented, it will provide a more consistent and efficient regional planning framework for the management of existing marine aquaculture activities and on-farm biosecurity management, while supporting sustainable aquaculture within environmental limits.
9. Iwi are divided in their desire to be involved in the aquaculture industry, given iwi hold significant aquaculture interests, including Treaty settlement assets (Article II) as well as Article III investments. Further to that, iwi recognise the economic and social benefits aquaculture provides to regional communities. As such, iwi are concerned that the proposed NES would be a means to provide another layer (first layer of certainty from Takutai Moana) for the entrenched aquaculture industry.
10. Ngāti kuia still hold concerns around MPI driving Fin Fish aquaculture over and above normal due process and MPI aspirations to achieve a \$1b industry through firstly the EPA and then 360a, while offering investors greater certainty and confidence to invest in better use of existing space, value-added production, new technologies, environment court and high court actions.
11. At the same time, Māori kaitiaki have not received the suit of tools to protect the environment against new regulation and commercial aspirations. The obligation to ensure that any activity undertaken in the coastal marine area is both environmentally sustainable and culturally appropriate has been delegated to regulation, local council decision makers or Government intervention.
12. TRoNK consider the more streamlined process for re-consenting and realigning existing marine farms could be useful for farms under 10 hectares as well as adding new species provided by the proposed NES is a good move towards ensuring increased certainty and consistency for existing farmers. We also consider that classifying the majority of these activities as "restricted discretionary" could be appropriate, given that the matters of discretion available to councils will still allow potential risks to be identified, assessed and managed.
13. TRoNK also supports that the replacement consent and change of species provisions will not apply to existing farms in Tasman Aquaculture Management Areas and Waikato Wilsons Bay as this would apply a more stringent regime than currently operating. These areas are specifically zoned for aquaculture and have an overall planning and consenting structure that aims to manage cumulative effects. As such, it is neither appropriate nor necessary for the proposed NES to apply in these regions. However, if the second-generation plans for these regions propose or provide





replacement consents and change of species provisions that are more stringent than the provisions contained in the proposed NES, the NES should apply.

14. There is an industry desire to increase certainty for the re-consenting of marine farms.

#### Part Two: issues for consideration

##### New consents

15. TRoNK does not support the “restricted discretionary activity” status for most applications for new consents. We don’t accept that the majority of marine farms are appropriately situated and that all farms, even those granted prior to the introduction of the RMA, have either undergone basic assessments or had inappropriate monitoring to show that they were situated in permitted areas suitable for aquaculture. Many of these farms have never been situated in the right place. We would support discretionary status for all application for new space

16. TRoNK is supportive of the list of effects currently considered to be relevant for council discretion:

- timing of occupation
- continued public access and navigational safety
- adverse effects on seabed features;
- marine mammal and seabird interacts with marine farms;
- effects on biosecurity; and
- effects of noise, rubbish and debris.

We consider that the matters listed above are appropriate for the council to have discretion over and should appear in any final NES. We note that we would not object to other matters of discretion being added to any final NES without those matters first being consulted on, excepting the additional matter of discretion proposed below.

- The effects on the values of cultural sites

17. TRoNK agrees that there are certain sites that should be recognised in the proposed NES because of their particular importance to aquaculture, such as the spat farms at Wainui Bay in Golden Bay and in Aotea Harbour. We consider it would be appropriate for those sites to be given “controlled activity” status. We note that, as was mentioned above, iwi with Statutory Acknowledgements must still be notified of any applications for replacement consents at any sites deemed to be of particular importance to aquaculture.



18. TRoNK considers it inappropriate that existing farms located in areas defined as outstanding natural features, outstanding natural landscapes or areas of outstanding natural character be given “discretionary activity” status. The impact those farms have on those outstanding areas should not be considered as a matter of discretion

Change of species

19. TRoNK have concerns that species changes can be enabled to assist industry even when evasive species such as Undaria have now been accepted as uncontrollable
20. TRoNK also supports that the proposed NES does not provide for a change in species to finfish, such as salmon, or other fed species (except for pāua as it requires minimal feeding).

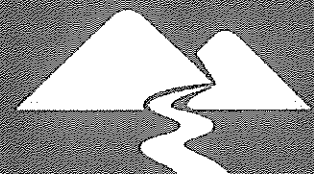
21. The proposed NES states:

*“Some Statutory Acknowledgements across the country recognise the relationship of tangata whenua with the coastal marine area. Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area *could be provided for through limited notification to them of applications for replacement consents for existing marine farms, if regional councils determined that they were affected parties.*” (Emphasis added)*

TRoNK appreciates that this paragraph is framed, as it is to reflect the wording of section 95E of the RMA. However, we consider that any iwi that holds a Statutory Acknowledgement for an area that is subject to an application for a replacement consent should automatically be recognised as an ‘affected party’ and understood that Ngāti Kuia hold mandated Iwi organisation Status and as such are responsible to the many members of the settlement organisation.

Biosecurity management plans

22. TRoNK agrees that all marine farms should be required to prepare, implement and keep up to date Biosecurity Management Plans and considers that the deadline of 31 January 2025 is appropriate.







## Resource Management Unit

[www.ngatikuia.iwi.nz](http://www.ngatikuia.iwi.nz)

### Conclusion

Te Rūnanga o Ngāti Kuia Taiāo/Environmental Unit supports the development of NES that protect and enhance the receiving environment and the collective and individual rights of Ngāti Kuia and Ngāti Kuia members as tangata whenua.

NKRM Unit fails to see how individual iwi members will have opportunities from a system that will allow the industry to entrench its position as a monopoly over many terms.

Ngāti Kuia believe that whoever holds a consent to utilise public coastal marine space (Takutai Moana) must:

- maintain permit conditions and clear lists of any breaches
- justify good reason to hold an enduring rights to public space against Environmental, Social, Cultural and commercial outcomes over the term

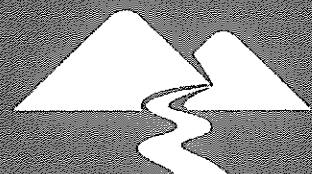
X

A handwritten signature in black ink, appearing to read 'Raymond Smith'.

Raymond Smith

### Resource Management Unit

PO Box 1046, Blenheim 7201  
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**Te Rūnanga o Ngāti Ruanui Trust's  
Feedback on the  
Proposed National Environmental Standards for Marine Aquaculture**



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## The Proposed National Environmental Standards for Marine Aquaculture

### 1 Introduction

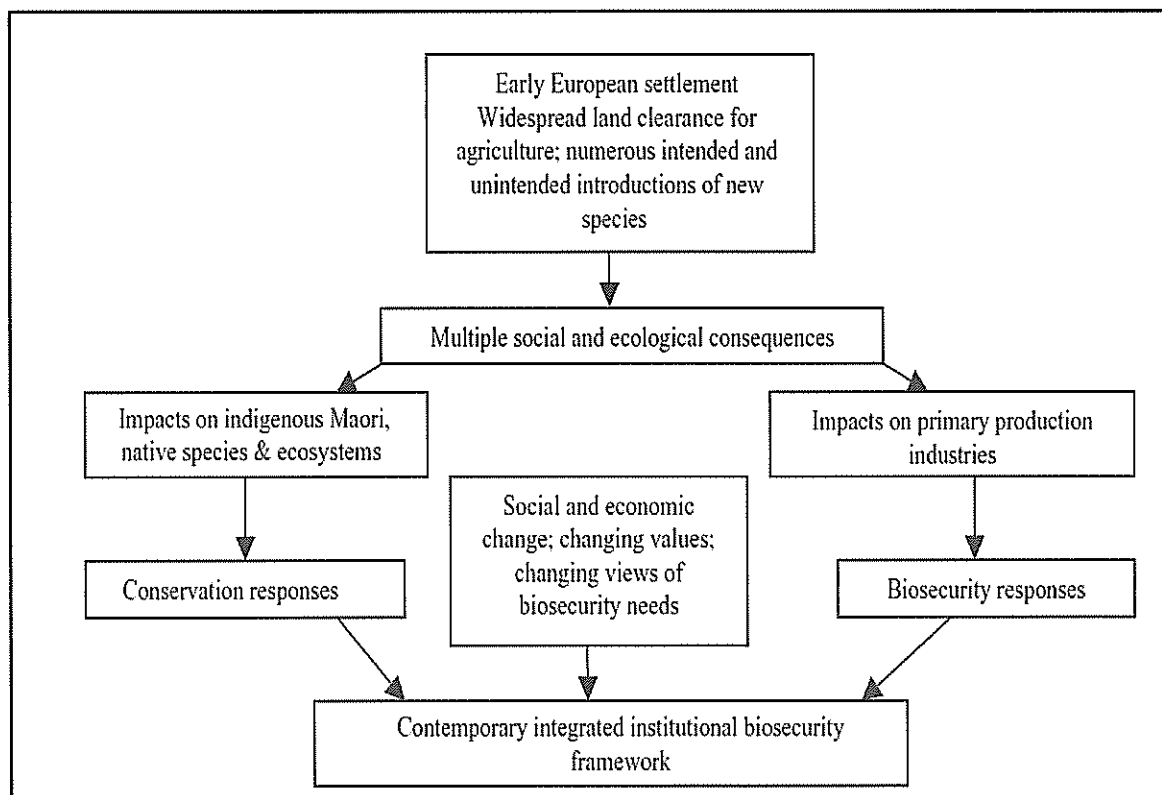
- 1.1 Thank you for the opportunity to comment on the proposed National Environmental Standards (NES) for Marine Aquaculture. Te Rūnanga o Ngāti Ruanui Trust (Ngāti Ruanui) has certain values: biodiversity, economic, social, spiritual, that are particularly at risk to biological invasions, in this case, the moana (the sea) which includes the Taranaki's coastal area (South Taranaki Bight) and Te Moananui a Kupe O Ngati Ruanui (area referred to in the Deed of Settlement between Ngāti Ruanui and the Crown). The Treaty of Waitangi secures and guarantees the protection of our values. For us, inadequately managed threats on our values could be construed as in breach of the Treaty principles and our customary rights.
- 1.2 The proposed NES provides an opportunity to set expectations about biosecurity risk management for all farms, coordinated with requirements under the Biosecurity Act 1993. **Ngāti Ruanui acknowledges the monetary benefits of marine aquaculture but reiterates that the Ministry for Primary Industries (MPI) promotes a 'moral economy', ensuring nature's capacity to sustain the marine ecosystem at an acceptable level alongside with the active protection of cultural, environmental and social well-being.** The content of our submission reflects our expectations that the MPI meets their culturally mediated social and legal obligations thereby enabling and strengthening iwi participation and rightful implementation of matters of cultural significance by inclusion of these matters with the NES.

### 2 The Biosecurity Management Plan

- 2.1 The proposed NES requires a comprehensive Biosecurity Management Plan (BioMP) with a coastal permit application for marine farms (new farm, or a replacement permit for an existing farm). The regional councils have responsibilities to assess and certify the BioMP and may choose to engage qualified external parties to assess BioMPs and to audit compliance.
- 2.2 The BioMP template includes (but not limited to) topics contained in the Aquaculture Biosecurity Handbook, and referred to in Appendix K: Stock movements and containment; stock feed and feeding; waste management; water supply and monitoring; equipment, vehicles and vessels; people and property management; staff training and education; record keeping; contingency plans and measures; monitoring and reporting; and auditing.



- 2.3 Biosecurity (biological security) is the management of risks posed by introduced species to environmental, economic, **social and cultural (including spiritual) values**. Besides this, contemporary integrated institutional biosecurity framework (refer to Figure 1) includes cultural impacts on tangata whenua and social changes. Cultural perceptions and socioeconomic experience of benefits and threats have been the prime determinants of conservation policy and biosecurity protection. However, **the topics included with the proposed BioMP template do not include social and cultural matters. We recommend that these matters form part of the template to ensure that this meets the integrated institutional biosecurity framework and risks posed by introduced species to social and cultural values are managed.**



**Figure 1:** Responses of European Settler Society to the impacts of introduced species; Source: Jay & Morad, (2006).

- 2.4 In essence, the sustainability of marine aquaculture requires recognition of intergenerational equity, a principle inherent within tangata whenua's kaitiaki role. A balanced approach to marine biosecurity, recognising the significant obligations to current and future generations for the management of marine and coastal cultural values should influence the proposed NES approaches.



2.5 Risk assessment is rapidly becoming an increasingly popular management tool for natural resource problems. The biosecurity and ecological risk assessments for marine aquaculture focus on a variety of attributes associated with significant environmental, economic, social and cultural values that society agrees are worth protecting. The proposed NES refers to natural features, characters and landscapes of the coast but is silent in referring to culturally significant sites and areas of significant cultural interest. The document should be amended to include provisions on social and cultural attributes with biosecurity and ecological risk assessments.

2.6 Further to the above, **we recommend the following criteria which reflect an ecological focus for biosecurity justification. We believe that the proposed criteria would link scientific understandings with a range of other values, giving biosecurity policies the capacity to recognise value or nuisance in different contexts such as culture:**

- economic wellbeing;
- the viability of threatened species of organisms, the survival and distribution of indigenous plants or animals, or the sustainability of natural and developed ecosystems, ecological processes, and biological diversity;
- water quality;
- human health or the recreational value of the natural environment; or
- **the relationship of Maori and their culture and traditions with their ancestral lands, waters, sites, waahi tapu, and taonga" (Section 72 (c) of the Biosecurity Act 1993).**

### 3 Iwi Participation

3.1 The perception of water is bound in cultural and spiritual beliefs and the physical and spiritual realms were interlinked. Governance and access to water and other natural resources are regulated under customary law. The collaborative institutional arrangements for natural resource governance (hybrid governance) is a means to settle customary issues and long-standing land grievances. **Ngāti Ruanui recommends that the MPI implements iwi participation in decision-making particularly where marine farms are located within statutory acknowledged areas. Iwi and hapu are the governance entity of these areas in accordance with the Deed of Settlements between iwi and the Crown.**

3.2 **The proposed biosecurity risk management framework, in our view, is highly technocratic and feeble in integrating tangata whenua values and contextual knowledge. Consequently, alienating iwi from any real participation/engagement. To achieve balance in considering all the elements of well-being, Ngāti Ruanui recommends that the proposed NES (includes the biosecurity operations) takes into account economic growth but also active protection of environmental cultural and social well-being.**



- 3.3 The above recommendations are consistent with the Resource Legislation Amendment Act, which has strengthened iwi participation in natural resource governance. One of the restitution measures include collaborative natural resource governance initiatives with iwi and hapu levels as part of the Treaty settlement process. Furthermore, Policies 2 and 8 of the New Zealand Coastal Policy Statement 2010 set out cultural provisions relating to the principles of the Treaty of Waitangi and kaitiakitanga, importance of aquaculture to social, economic and cultural wellbeing of people and communities.
- 3.4 The MPI believes that “the local environmental issues may be under-valued at the consenting stage, but only if the community hold different views or where there is local concern, for instance about the impact of marine farms just beyond the boundaries of outstanding areas.” Consequently, the proposed NES chose to express local concerns at the plan-making stage in assessing the appropriateness of aquaculture. We partially agree with this approach.
- 3.5 Based on our experience, councils tend to overlook effects on cross-claim and culturally significant areas, including areas referred to in the Deed of Settlements, with respect to notification and environmental effects assessments. This in effect, breaches iwi provisions set-out in Part 2 of the RMA. To avoid this error, **we recommend that the proposed NES be amended to include provisions to require councils to actively protect these cultural areas and to consult with iwi (promote iwi participation).** The proposed NES should reflect the values and interests of iwi using a ‘pluralist’ instead of the current ‘homogenous’ approach.

## 4 Monitoring

- 4.1 The proposed NES requires marine farms, through consent conditions on coastal permits, to monitor and record the implementation and maintenance of biosecurity measures and submit regular reports to the regional council. **For the purpose of transparency and in respect of the cultural significance of the affected marine area (includes statutory acknowledgements), it is appropriate that a copy of these reports including applicable updated BioMPs are provided to respective iwi.** Apart from this, **we recommend that the proposed NES includes innovative monitoring strategies relating to consultation with tangata whenua, monitoring of the conditions of natural resources claimed by tangata whenua and annual surveys to track satisfaction of resource conditions associated with tangata whenua values.**
- 4.2 Prior to July 2011, monitoring in the coastal environment was limited to measuring bacteria levels at a number of beaches widely used for contact recreation activities. Shellfish were also analysed for bacteria to assess against shellfish gathering standards. Both of these look at only one aspect of the marine environment namely bacteria contamination and its impact on contact recreation. However, the historic monitoring has not had a focussed strategy or objectives and in effect, has resulted to limited collection of data for the marine environment with no clear strategy or objectives. We recommend the following objectives to address this gap:



- To assess and monitor the state of ecologically and culturally significant marine sites with the help of a coordinated multi-agency approach.
- Identify and describe new significant sites through field surveys where additional or anecdotal reports indicate significant habitats may be present.
- Develop a web-based database for the collation of knowledge on marine biodiversity.
- To ensure the ecological integrity, recreational and cultural values of the marine environment are not compromised through mismanagement and/or intensification of the marine environment.
- Explore opportunities to involve iwi in the implementation of the strategy.
- To investigate and collect information to help inform the community on the pressures and issues related to the coastal environment.

## 5 Auditing Compliance

5.1 Upon receipt of the BioMPs, the regional council could undertake periodic audits to ensure that the BioMPs are being implemented and kept up to date. Besides this, the proposed NES includes the role of the MPI in undertaking ongoing monitoring to assess its effectiveness at addressing the problems that have been identified in this discussion document. MPI would also continue to develop and implement guidance material to assist regional councils, the community and the aquaculture industry to implement the NES.

5.2 **The central and local governments have a monopoly over audit provisions and compliance services. We believe that such monopoly be replaced with the inclusion of iwi participation to ensure equity by creating an “Audit Panel”. The Panel would include government officers, technical experts, representatives from iwi authorities, non-government organisations and stakeholders. We recommend that annual audits of the performance of regional councils in meeting its obligations under the NES which includes the evaluation of the BioMPs quality in terms of articulating tangata whenua values be implemented. The following matters are proposed to assist the MPI in setting-out audit criteria. Such matters could be referred to with the council’s plan-making process.**

5.2.1. Clear interpretation. Articulation of how legislative-enabling provisions focused on tangata whenua communities, interpreted in the context of regional and local circumstances.

- Is there a clear explanation of how the plan recognizes and provides for resources of significance to local tangata whenua and establishes and maintains such resources as Matters of National Importance? (Sec. 6(e) of the RMA)
- Is there a clear explanation of local tangata whenua’s responsibility in the guardianship and stewardship of land and resources? (Sec. 7(a) of the RMA)
- Is there a clear explanation how plans take account of the principles of the Treaty? (Sec. 8 of the RMA)



**5.2.2. Clear identification of issues.** Clear identification of land management issues premised on the values and goals of the local/regional tangata whenua community.

- Are tangata whenua issues clearly identified in terms of an effects-based orientation?
- Do the issues reflect values from iwi groups present in the local area?

**5.2.3. Thorough fact base.** Incorporation and explanation of the use of quantitative and qualitative data in issue identification and the development of objectives and policies which supports the understanding of policy makers and tangata whenua of their situation.

- Are maps/diagrams included? Do the maps display information that is relevant and comprehensible?
- Are facts presented in relevant and meaningful formats?
- Are methods used for deriving facts cited?
- Are issues prioritized based on explicit methods?
- Is benefit/cost analysis performed for main alternatives?
- Is background information/data sourced/referenced?

**5.2.4. Internal consistency of tangata whenua's rights.** Internal consistency among issues, goals, objectives, policies, implementation methods, indicators for monitoring, and anticipated results (or outcomes) that involve tangata whenua.

- Are objectives clearly linked to issues?
- Are policies clearly linked to certain objectives?
- Are methods linked to policies?
- Are anticipated results linked to objectives?
- Are indicators of outcomes linked to anticipated results?

## 6 Cost Recovery

Consent authorities can recover the actual and reasonable costs associated with processing resource consents (section 36 of the RMA). This could be either by setting fixed fees for applications or by charging an initial lodgement fee (more widely used) or deposit. Although the RMA has specific iwi statutory provisions, enabling iwi's participatory and kaitiakitanga role, the RMA is silent in enabling cost recovery for work incurred by iwi authorities in considering cultural impacts of resource consent applications. We recommend that the MPI, in conjunction with consent authorities (responsible for determining the actual fees through adequate consultation with respective iwi), includes a cost recovery framework with consent fees set-out to include iwi authorities' associated cost for consent processing.

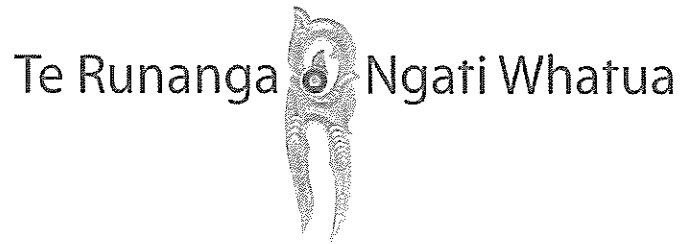


## 7 Other Matters

- 7.1 The proposed NES (Figure 1, page 8) shows the geographical locations of main aquaculture activities currently in New Zealand. Besides this, there are main shipping routes, existing oil and gas platforms, etc. In combination, these activities present a high risk to the coastal environment. In respect of integrated management (referred to in Sections 30, 31, 58F, 58N, 59 and 64 of the RMA), we recommend that the proposed NES apply Spatial Planning Tools - 'zoning' to those (but not limited to) locations and routes, for consistency. The SPT is referred to in the proposed National Planning Standards and implemented by regional and district councils. The coastal monitoring strategy should refer to applicable zones, with monitoring parameters considered appropriate to the values and risks associated with each zone. Examples of values associated with each zone are recreational use, aquaculture, cultural and ecologically significant sites.
- 7.2 **We recommend that a Cultural-Spatial Planning Tool (SPT) – 'Cultural Cautionary Zone' be applied with the proposed NES. The recommended Cultural Cautionary Zone could provide beneficial opportunities for local government agencies, government departments and private companies: forge better alliances with iwi organisations, such as iwi authorities; access tangata whenua's cultural information and store (under certain conditions) some of this information on their own planning databases. In addition, the development of comprehensive SPT would provide better integration of cultural and social information with the Standards. This could form a basis for more rational and informed debate on coastal marine and environmental issues and to enable more effective planning at all levels: the iwi, community, district, regional and national.**
- 7.3 **The recommended Cultural Cautionary Zone could include resource inventories of tangata whenua values, coverage of iwi and hapu management plans, areas referred to in the Deed of Settlements and statutory acknowledgements, iwi's cultural, economic and social interests, planning issues for each iwi/hapu and set of provisions. Tangata whenua values, as interpreted from the RMA, the Marine and Coastal Area (Takutai Moana) Act 2011 and the Historic Places Act 1993, refer to a large range of sites, places, natural resources, objects, features, and things such as (but not limited to): customary rights of the iwi, hapu and whanau in the coastal marine and coastal area; public access to the coastal marine and coastal area; rohe boundaries; other special resource sites such as mahinga kai and mahinga mataitai (traditional food source areas); discrete sites of special and spiritual significance; and natural resource of cultural significance.**
- 7.4 In terms of notification, the proposed NES includes notification assessment of relevant coastal permit applications will follow the normal statutory tests under the RMA in determining whether or not to notify an application. In our view, this approach does not take into account existing and/or proposed marine farms located outside statutory acknowledgements and impacts on adjoining statutory acknowledgments. We recommend that 'cross-boundary effects' be included with the notification assessment.







**SUBMISSION ON PROPOSED NATIONAL  
ENVIRONMENTAL STANDARD FOR MARINE AQUACULTURE**

*Date: 8 August 2017*

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## SUBMISSION ON PROPOSED NATIONAL ENVIRONMENTAL STANDARD FOR MARINE AQUACULTURE

### INTRODUCTION

1. Te Rūnanga o Ngāti Whātua ["Te Rūnanga"] welcomes the opportunity to submit on the proposed National Environmental Standard for Marine Aquaculture ["NES"].
2. Te Rūnanga was established as a body corporate by Te Rūnanga o Ngāti Whātua Act 1988 and is a Māori Trust Board under the Māori Trust Boards Act 1955. It is also a Mandated Iwi Organisation [MIO] and Iwi Aquaculture Organisation [IAO] for the purposes of the Māori Fisheries Act 2004.
3. Te Rūnanga is the sole representative body and authorised voice to deal with issues affecting the whole of Ngāti Whātua.
4. *Te Rohe o Ngāti Whātua is traditionally expressed as Tāmaki ki Maunganui i te Tai Hauāuru and Tāmaki ki Manaia i te Rāwhiti. The northern boundary is expressed as, Manaia titiro ki Whatitiri, Whatitiri titiro ki Tūtamoe, Tūtamoe titiro ki Maunganui. The southern boundary is expressed as, Te awa o Tāmaki.*
5. Te Rohe o Ngāti Whātua [Ngāti Whātua tribal area] extends from the Ōtāhuhu Portage/Tāmaki estuary in the south, northwards along both coasts to Whangarei in the east and Waipoua in the west. The southern neighbours are various hapū of Tainui and the northern neighbours are various hapū of Ngāpuhi.
6. In 2004 the Crown enacted the Māori Commercial Aquaculture Claims Settlement Act ("MCACSA"), which provided full and final settlement of Māori commercial aquaculture claims since 21 September 1992. That Act required Iwi Aquaculture Organisations to receive settlement assets based upon 20% of all aquaculture space approved in the coastal marine area since 21 September 1992, either by way of cash or authorisations to apply for space. Because all approval of aquaculture space takes place under the Resource Management Act 1991 ("RMA"), all settlements are regional, based on regional council boundaries.
7. Given the rights afforded to Māori under the MCACSA and their own development aspirations, Ngāti Whātua have a strong interest in the future of the aquaculture industry particularly an increased certainty for the re-consenting of marine farms.
8. Te Rūnanga is generally supportive of the proposed NES as a means of achieving these aims.

9. This submission proposes a number of recommendations intended to strengthen the outcomes divided into the following parts:
  - a. Part one: overall support for proposed NES
  - b. Part two: feedback on the four key elements of the proposed NES
    - i. Restricted discretionary status for most replacement consents and changes of species on existing marine farms
    - ii. Most applications for replacement consents will not be publicly or limited notified (other than to the holders of Statutory Acknowledgements)
    - iii. Small scale boundary realignments of existing marine farm of less than 10 hectares
    - iv. Biosecurity management plans

Part One: overall support for the proposed NES

10. Our support centres on the stated objective for developing the proposed NES. Once implemented, it will provide a more consistent a more robust regional planning framework for consenting purposes of existing marine aquaculture activities that include on-farm biosecurity management, while supporting sustainable aquaculture within environmental limits.
11. Te Rūnanga recognises the enormous economic and social benefits aquaculture provides to regional communities. The proposed NES provides a means to stabilise the aquaculture industry whilst offering investors greater confidence to invest in better use of existing space, value-added production along with new technologies.
12. We consider the more streamlined process for re-consenting and realigning existing marine farms under 10 hectares as well as adding new species that is provided by the proposed NES is a good move towards ensuring increased certainty and consistency for existing farmers. We also consider that classifying the majority of these activities as "restricted discretionary" is appropriate, given that the matters of discretion available to councils will still allow potential risks to be identified, assessed and managed.

Part Two: issues for consideration

*Restricted discretionary status for most replacement consents and the change of species on existing marine farms*

Replacement consents

13. Te Rūnanga supports the "restricted discretionary activity" status for most applications for new consents for existing farms. We accept that the majority of marine farms are appropriately situated and have either undergone adequate assessments or had appropriate monitoring to show that they were situated in areas suitable for aquaculture.
14. We note that the proposed NES would allow for councils to set more lenient activity classifications for existing farms through their regional planning processes, if they choose to after consultation with their communities. We support regions proactively planning for aquaculture as well as councils classifying aquaculture as a controlled activity where

the community as a whole has decided that it is appropriate to do so. Regardless of the activity classification given however, those iwi or hapū with Statutory Acknowledgements [mainly through Treaty Settlements] should be notified of any applications for replacement consents.

15. We support the list of effects currently considered to be relevant for council discretion:

- Timing of occupation
- Continued reasonable public access and navigational safety
- Adverse effects on seabed features;
- Marine mammal and seabird interacts with marine farms;
- Effects on biosecurity; and
- Effects of noise, rubbish and debris.

These effects should appear in any final NES.

16. We also endorse the additional effects noted on page 28 of the NES when considering marine farms where supplementary feeding is a fundamental feature of their operation.

17. We would object to other matters of discretion being added to any final NES without those matters first being consulted on, excepting the additional matter of discretion proposed below. That is because the draft NES itself raised and suggested the effects on tangata whenua values.<sup>1</sup>

## Tangata whenua values

18. Te Rūnanga considers it appropriate that tangata whenua values be included as a matter to exercise discretion over. However, based on direct experience we are not confident that regional councils are currently well placed to understand tangata whenua values to a point that gives meaningful effect to them.

19. To better address these matters we consider that the IAO's of a region should appoint a people to represent their views through engagement with councils. Such an arrangement would convey views to regional councils given the quest by iwi to align the social, economic, environmental as well as cultural aspirations for successive generations.

20. We would expect this to be one of the matters expressly dealt with by councils and IAO's of each region as part of the development of second generation coastal plans.

21. However, with a list of known sites in each region, we consider that councils should work proactively ahead of the plan process to better allow IAO's to consider the full list together rather than a reactive single application by single application approach. We consider the Ministry for Primary Industries [MPI] should emphasise this through its good practice information.

22. As a bottom line practice required by the NES we propose that:

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<sup>1</sup> Proposed National Environmental Standard for Marine Aquaculture, page 64.

- a. Regional council staff be directed to work with the IAO representative nominated for their respective regions. Council staff would notify them as soon as practicable that an application for a replacement resource consent has been received, so that they can then liaise with all relevant iwi about their views on the particular site;
- b. These representatives would convey any social, economic, cultural as well as environmental concerns that iwi may have about a particular site to the relevant council;
- c. Regional council staff would take the advice of the representative into account when assessing an application for a replacement resource consent;
- d. Regional councils would pay for the time of appointed representatives by providing them with a consultancy fee; and
- e. The position would be similar to that provided for by section 40(1) (a) of the Resource Legislation Amendment Act 2017 (Schedule 1, Part 4, section 40 of the RMA).

## Sites of importance

23. Te Rūnanga agrees that there are certain sites that should be recognised in the proposed NES because of their particular importance to aquaculture, such as the spat farms. We consider it would be appropriate for those sites to be given "controlled activity" status.
24. Te Rūnanga considers that existing farms located in areas defined as outstanding natural features, outstanding natural landscapes or areas of outstanding natural character be given "restricted discretionary activity" status. The impact those farms have on those outstanding areas should be considered as a matter of discretion. In order to settle questions around the impacts of these farms in a timely matter, we consider the proposed NES should require all councils to undertake an assessment similar to that done by Auckland Council through the Auckland Unitary Plan, whereby they assessed the effects of existing marine farms on the values of outstanding areas. Councils should be required to assess the impact that existing marine farms, which have structures that overlap with outstanding areas by more than 5% above water, have on the values of those areas.

## Change of species

25. Te Rūnanga considers it appropriate for the proposed NES to address change in species as this is a meaningful way to promote innovation within the aquaculture industry. We consider there is benefit in the way different types of species change have been categorised in the proposed NES, and support the restricted activity classification as well as the different matters of discretion that would apply to each category. We are especially supportive of the broad discretion councils will have to consider whether or not to grant a change of species in Categories 3 and 4, given there is little evidence of the environmental impacts of these species.

26. Te Rūnanga also supports the proposal not to provide for a change in species to finfish, such as salmon, or other fed species [except for pāua as it requires minimal feeding].
27. Spat farms should not be excluded from the change of species provisions of the proposed NES. We disagree with the assertion that 'spat catching farms have considerably different effects from a production farm'<sup>2</sup>, and consider that a change of species from spat farming can be appropriately dealt with within the matters of discretion provided for by the proposed NES.

*Most applications for replacement consents will not be publicly or limited notified [other than to the holders of Statutory Acknowledgements].*

28. The proposed NES states<sup>3</sup>:

*"Some Statutory Acknowledgements across the country recognise the relationship of tangata whenua with the coastal marine area. Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area could be provided for through limited notification to them of applications for replacement consents for existing marine farms, if regional councils determined that they were affected parties." (Emphasis added)*

29. Te Rūnanga appreciates that this paragraph is framed as it is to reflect the wording of section 95E of the RMA. However, any Treaty settlement legislation containing a Statutory Acknowledgement guarantees the relevant iwi the right to be notified of any applications for replacement consents. Therefore, any iwi that holds a Statutory Acknowledgement for an area subject to an application for a replacement consent should automatically be recognised as an 'affected party' and there should be no discretion for councils to determine otherwise. We therefore propose the wording be changed to:

*"Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area should be provided for through limited notification to them of applications for replacement consents for existing marine farms"*

30. Provided that the concerns above are addressed, Te Rūnanga supports applications for replacement consents being non-notified. Non-notification of applications for replacement consents is a crucial feature of the proposed NES. If the proposed NES were to provide for public notification, then it would hinder the ability of the NES to provide a more consistent and efficient regional planning framework.

*Small scale boundary realignments of existing marine farm of less than 10 hectares*

31. Te Rūnanga supports the provisions of the proposed NES that relate to the realignment of existing farms less than 10 ha, where those farms are located over seabed habitat with important values [such as a reef's], or within areas that are no longer considered to be entirely suitable for marine farming. Allowing the realignment of up to 1/3 of these farms will provide better outcomes for the environment, productivity and the community.

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<sup>2</sup> Proposed National Environmental Standard for Marine Aquaculture, page 36.

<sup>3</sup> Proposed National Environmental Standard for Marine Aquaculture, page 31.

32. The size restriction proposed to apply to realignments covered by the proposed NES is appropriate, given that it will allow for the realignment of 95% of existing farms. Further, the small number of farms that are larger than 10 ha were generally sited appropriately at the time consent was granted and are therefore unlikely to require realignment.

*Biosecurity management plans*

33. Te Rūnanga agrees that all marine farms should be required to prepare, implement and keep up to date Biosecurity Management Plans and considers that the deadline of 31 January 2025 is appropriate.
34. Councils should engage with the license holders for those marine farms that will not expire before 31 January 2025 well before that deadline and look to have those farms prepare Biosecurity Management Plans as soon as is practically possible.
35. Te Rūnanga notes that MPI will list the matters to be included in a Biosecurity Management Plan in a separate document. We consider that the proposed topics listed on page 41 of the NES consultation document are useful.





Submission for NES Marine Aquaculture

Te Rūnanga o Toa Rangatira Inc. submission

## **Background/Context**

Te Rūnanga o Toa Rangatira Inc. (Te Rūnanga) is the mandated iwi authority for Ngāti Toa Rangatira and is the administrative body of iwi estates and assets. The Rūnanga deals with the political and public issues of national interest such as Treaty of Waitangi claims, commercial and customary fisheries, health services including primary mental health and residential care services, local government relationships and resource and environmental management<sup>1</sup>.

Ngāti Toa consider their rohe to be from Whangaehu in the North Island, it extends eastwards to Turakirae Heads and encompasses Te Moana o Raukawa. In Te Waipounamu (the South Island), the rohe extends to include all Te Tau Ihu; its southernmost point on the West Coast is the outlet of the Arahura River and Kaikoura on the Eastern Coast<sup>2</sup>.

Te Tau Ihu coastal marine area is a significant area to Ngāti Toa. As part of the Ngati Toa settlement it requires relevant authorities to record Ngāti Toa's statutory acknowledgement on certain statutory planning documents under the Resource Management Act 1991. Ngāti Toa have also applied for recognition of customary interests in Te Tau Ihu under the Takutai Moana Act 2011.

It is also important to note here the Māori Commercial Aquaculture Claims Settlement Act. This provided settlement of Māori commercial aquaculture claims and allows Iwi Aquaculture Organisations to receive settlement of aquaculture space. Ngāti Toa are still negotiating this with the crown.

Ngāti Toa therefore have a significant interest in the future of the aquaculture industry but also have an obligation as kaitiaki to ensure that activities do not impact on the environmental, social, economic and cultural values of the iwi.

It should also be noted here that Te Rūnanga are supportive of the submission that Te Ohu Kaimoana have made on the specific issues and recommendations that they have made.

## **Overall Submission**

Te Rūnanga are supportive of the proposed National Environmental Standard for Marine Aquaculture for existing marine farms, as it will provide consistency nationally while also allowing for regionally specific issues to be dealt with.

Te Rūnanga does suggest some recommendations to ensure the purpose of the Standard is achieved and to ensure the legislative requirements related to Ngāti Toa's settlement with the Crown are not undermined.

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<sup>1</sup> <http://www.ngatitoa.iwi.nz/runanga/te-runanga-o-toa-rangatira>

<sup>2</sup> Ngati Toa Deed of Settlement <https://www.govt.nz/dmsdocument/5659.pdf>

This submission is focussed on the various questions posed throughout the document, however not all questions were deemed relevant and so were not answered.

**Do you think an NES for marine aquaculture, including guidance material, is required?**

**Alternatively, do you think the status quo (where regional councils decide the activity status for replacement consents for existing marine farms and consents for change of species which can vary from controlled to non-complying) should be maintained?**

As discussed above Te Rūnanga is supportive of the standard with guidance material. Allowing for regional variation in the form of restricted discretionary ruling is appropriate as this will allow for Ngāti Toa to be consulted and for any statutory acknowledgements to be recognised in regional council planning documents.

Te Rūnanga is also supportive of the distinction between current and new space and the requirement for resource consent when changing or adding new species.

Te Rūnanga recommends however that Ngāti Toa who has statutory acknowledgements over Te Tau Ihu coastal marine area are consulted and adverse effects on cultural impacts are avoided, mitigated or remedied, as specified under the RMA Act 1991.

**Do you think restricted discretionary is an appropriate status for replacement consents for existing marine farms? How would other activity statuses address the issues identified in section 3 of this discussion document?**

Te Rūnanga do not recommend that activity statuses are made more lenient as this would reduce the need for consultation with Ngāti Toa.

**Does the NES need to provide a full rule framework, including discretionary activity rules for those marine farms that cannot meet the requirements to be a restricted discretionary activity?**

We recommend that full rules be developed within this NES as this will allow Te Rūnanga to make a full judgement on the activity of aquaculture and the impacts and opportunities that this activity might have on Ngāti Toa. This will also allow a more integrated management framework for cumulative effects of marine farming especially when supplementary feed is being used.

**Do provisions covering replacement consents for existing marine farms where supplementary feeding occurs require additional terms to define what qualifies to be a restricted discretionary activity?**

Yes, Te Rūnanga recommends further terms be developed due to the potential impact that supplementary feeding has on the marine and coastal area and the uncertainty of impacts of some methodologies.

**Do you have any feedback on the analysis of effects contained in Appendix G?**

Yes, in particular to the Cultural effects section and the need for further consultation. Te Rūnanga recommends that this be handled with the regional councils when developing or reviewing their regional plans or coastal plans and not as a part of this process. This is because cultural impacts are site specific and activity specific and thus commentary may vary dependant on site location.

**Outstanding natural features, outstanding natural landscapes and areas of outstanding natural character have been identified as requiring a specific matter of discretion because of the direction provided by the NZCPS 2010. Are there other areas/values that should also be identified, such as those listed in Policy 11 of the NZCPS 2010?**

Adjacent areas to ONF's, ONL's and areas of ONC should also have a matter of discretion. This needs to be assessed whether the adjacent marine farm could have an impact on the area in question and not assumed that it doesn't. Marine areas do not have boundaries and any affect that the marine farm may have on the adjacent area needs to be assessed especially if supplementary feeding and currents push feed into the significant areas that may sensitive habitats.

**If so, what are these areas/ values and what are the potential effects of concern caused by existing marine farms on those areas/values?**

Please see response to above question.

**Are there certain types of aquaculture for which replacement consent applications should be publicly notified?**

Te Rūnanga supports that iwi should be notified but there should also be provision within the restricted discretionary process to ensure cultural values are not adversely affected under the RMA law. Therefore, this consideration should also be a part of the criteria identified above on pg 27.

**Are there advantages or disadvantages to allowing councils to take a more lenient approach that you would like us to be aware of?**

Yes, due to the cultural significance of areas identified as statutory acknowledgements, Ngāti Toa should have the opportunity to comment on consents regardless of how lenient the approach may be.

**Do you agree that the areas zoned specifically for aquaculture in Tasman and Waikato should be exempted from the provisions of the proposed NES relating to replacement consents for existing marine farms?**

Only when changes are sought and the NES is more stringent.

**Are there other specific matters that councils should be able to consider for applications to realign existing marine farms? Are the matters that have been identified all relevant?**

Statutory acknowledgements need to be considered

**Is restricted discretionary an appropriate status for most changes in species?**

Due to the uncertainty highlighted in the document Te Rūnanga consider taking a precautionary approach to be appropriate. In time when there is further evidence of different species impacts these issues should be addressed then.

**Do you have any feedback on the scope of matters of discretion?**

As discussed above, cultural effects should be considered as a matter of discretion as identified in the RMA 1991.

**Do you think it is necessary for all marine farms to prepare, implement and keep up to date Biosecurity Management Plans (BioMP)? What concerns would you have if it were required? What (if any) exceptions should be made and why?**

Yes, because biosecurity can have a large impact on aquaculture in New Zealand and is very difficult to eradicate organisms when they become pests, Te Rūnanga is supportive of the need for all marine farms to prepare, implement and keep up to date Biosecurity Management Plans.

**Is the deadline of 31 January 2025 appropriate, and why?**

Te Rūnanga is supportive of a deadline, however it is important to note many resource consents will be up for renewal around then as well. This may put a large amount of strain on the applicants as well as the councils. We recommend looking at a staggered approach to this requirement rather than a final deadline which may allow applicants and councils to do more efficient planning and to identify their capacity needs.

**Is it appropriate for existing coastal permits to be reviewed and required to prepare BioMPs in order to comprehensively address biosecurity risks to industry and New Zealand's wider marine environment? If not, why not?**

Yes, Te Rūnanga supports the need for existing coastal permits to prepare a BioMP.



**SUBMISSION: PROPOSED NATIONAL ENVIRONMENTAL  
STANDARD FOR MARINE AQUACULTURE**

**To: Ministry for Primary Industries  
Private Bag 14  
Nelson 7042  
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This submission is filed by:

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## INTRODUCTION

1. This submission is made on behalf of Te Whakakitenga o Waikato Incorporated (formerly known as Waikato-Tainui Te Kauhanganui Incorporated) on the draft legislative amendments to the Maori Fisheries Act 2004.<sup>1</sup>
2. Te Whakakitenga o Waikato Incorporated (**Waikato-Tainui**) is the governing body and mandated iwi organisation for the 33 hapuu and 68 marae of Waikato Tainui and manages the assets of Waikato Tainui for the benefit of over 70,000 registered tribal members.
3. Waikato-Tainui makes this submission on behalf of our hapuu and iwi members. The rohe (tribal region) of Waikato-Tainui is bounded by Auckland in the north and Te Rohe Potae (King Country) in the south and extends from the west coast to the mountain ranges of Hapuakohe and Kaimai in the east. Significant landmarks within the rohe of Waikato include the Waikato and Waipaa Rivers, the sacred mountains of Taupiri, Karioi, Pirongia and Maungatautari, and the west coast of Whaaingarua (Raglan), Manukau, Aotea and Kaawhia moana.

## SUMMARY OF POSITION

4. Waikato-Tainui supports the intent of the proposed National Environmental Standard for Marine Aquaculture (**NES**) and generally agree that it is an appropriate means of achieving its overall purpose. However, we have identified several issues within the supporting consultation document. These are discussed in more detail in the following submissions.
5. Waikato-Tainui is available to discuss our submission. We seek direct engagement with the relevant representatives on the matters set out in this submission, in advance of the proposed NES being finalised.

## BACKGROUND

6. In 2004 the Crown enacted the Māori Commercial Aquaculture Claims Settlement Act ("**MCACSA**"), which provided full and final settlement of Maaori commercial aquaculture claims since 21 September 1992. The Act required Iwi Aquaculture Organisations to receive settlement assets representative of 20% of all aquaculture space approved in the coastal marine area since 21 September 1992, either by way of cash or authorisations to apply for space.
7. Given the rights and interests afforded to Maaori under the MCACSA and their own aspirations for growth within aquaculture, iwi have a strong interest in the future of the aquaculture industry. Maaori as kaitiaki also have an obligation to ensure that any activity undertaken in coastal marine areas is both environmentally sustainable and culturally appropriate.
8. The National Environmental Standard for Marine Aquaculture that has been proposed by Ministry for Primary Industries (**MPI**) seeks to provide a more consistent and efficient regional planning framework for the management of existing marine aquaculture activities and on-farm biosecurity management, while supporting sustainable aquaculture within environmental limits.

## SPECIFIC WAIKATO-TAINUI SUBMISSIONS

9. Waikato-Tainui's concerns with the proposed NES set out in the discussion and consultation documents relate to the following:
  - (a) Support for proposed NES
  - (b) Replacement consents
  - (c) Statutory Acknowledgements
  - (d) Boundary realignments
  - (e) Biosecurity management plans
10. We set out further details on those matters below.

### ***Support for the proposed NES***

11. Waikato-Tainui supports the intent and objectives of the proposed NES and considers that, if implemented, it will provide a more consistent and efficient regional planning framework for the management of existing marine aquaculture activities and on-farm biosecurity management, while supporting sustainable aquaculture within environmental limits.
12. Waikato-Tainui and many other iwi hold significant aquaculture interests, including Treaty settlement assets (Article II & III investments). As such, iwi are supportive of the proposed NES as a means of providing a sustainable future for the marine aquaculture as well as greater certainty and confidence for marine farm and investor.

### ***Replacement Consents***

13. Waikato-Tainui notes that through the NES most applications for new consents for existing farms will be processed as a "restricted discretionary activity". Waikato-Tainui believes that in addition to the matters of discretion that may be considered by councils, it is important that tangata whenua values are included. It is also important that regional councils are well placed to understand tangata whenua values and give meaningful effect to them. To ensure that is done iwi authorities in a region may appoint a person to represent the views of tangata whenua through liaison with councils. This tangata whenua representative would convey any social, economic and cultural concerns that iwi may have about a particular site to the relevant council.
14. Waikato-Tainui agrees that there are certain sites that should be recognised in the proposed NES for their importance to aquaculture, such as the spat farms in Aotea Harbour. We also consider that it would be appropriate for those sites to be given a "controlled activity" status. However, we would recommend that iwi with Statutory Acknowledgements and or those iwi within the area where an application has been made for replacement consents at any sites deemed to be of particular importance to aquaculture should be deemed as being affected and must be notified.
15. Waikato-Tainui considers it appropriate that existing farms located in areas defined as outstanding natural features, outstanding natural landscapes or areas of outstanding natural character be given "restricted discretionary activity" status and that the impact those farms have on outstanding areas should be considered as a matter of discretion.

### ***Statutory Acknowledgements***

16. Waikato-Tainui recognise that most applications for replacement consents will not be notified other than to the holders of Statutory Acknowledgements. We understand that non-notification of applications for replacement consents is a crucial feature of the proposed NES and its ability to provide a more consistent and efficient regional planning framework



17. Waikato-Tainui believe that it is very important that iwi with Statutory Acknowledgements continued to be notified of any applications for replacement consents at any sites deemed to be of importance to aquaculture. Statutory acknowledgements recognise the mana of tangata whenua in relation to statutory areas particularly the cultural, spiritual, historical and traditional values associated with those areas. Currently the proposed NES states:

*“Some Statutory Acknowledgements across the country recognise the relationship of tangata whenua with the coastal marine area. Any groups with Statutory Acknowledgements in or relating to the common marine and coastal area could be provided for through limited notification to them of applications for replacement consents for existing marine farms, if regional councils determined that they were affected parties.”*

18. Waikato-Tainui considers that any iwi that holds a Statutory Acknowledgement for an area or those iwi that interest in an area that is subject to an application for a replacement consent should automatically be recognised as an affected party and that there should be no discretion for councils to determine otherwise. We would therefore recommend that the wording within proposed NES relating to statutory acknowledgements be amended as follows:

*“Any groups with interests or Statutory Acknowledgements in or relating to the common marine and coastal area should be provided for through limited notification to them of applications for replacement consents for existing marine farms.”*

### **Boundary Realignments**

19. Waikato-Tainui supports the provisions of the proposed NES that relate to the small-scale boundary realignment of existing marine farms less than 10 hectares, where those farms are located over seabed habitat with important values or within areas that are no longer considered to be entirely suitable for marine farming. We consider that allowing the realignment of up to a third of these farms will provide better outcomes for the environment, productivity and the community.
20. We consider that the size restriction that is proposed to apply to realignments covered by the proposed NES is appropriate, given that it will allow for the realignment of 95% of existing farms. It is recognised that the small number of farms that are larger than 10 hectares were generally sited appropriately at the time consent was granted and are therefore unlikely to require realignment.

### **Biosecurity Management Plans**

21. Waikato-Tainui agrees that all marine farms should be required to prepare, implement and keep up to date Biosecurity Management Plans and considers that the deadline of 31 January 2025 is appropriate. We would have preferred a finalised list of matters to be included but consider those listed on page 41 to be helpful.
22. We support the recommendation to include those matters in a Biosecurity Management Plan in a separate document. However, we note that Waikato-Tainui would like to be informed if there is any proposed amendment to the list of matters.

## **CONCLUSION**

23. As noted above, Waikato-Tainui supports the intent purpose of the proposed NES. However, we note our concerns and would be pleased to discuss this submission with MPI.

DATED

8 August 2017

TE WHAKAKITENGA O WAIKATO INCORPORATED



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APPENDIX 1 – WAIKATO RAUPATU MARAE

