

Submission from Auckland Council to the Ministry for Primary
Industries

Proposed National Environmental Standard for Marine
Aquaculture

7 August 2017

Foreword

This is the Auckland Council's submission on central government's '*Proposed National Environmental Standard for Marine Aquaculture*' released June 2017.

Planning Committee members considered this submission at its meeting held on 1 August 2017. Under resolution, approval of the final submission was delegated to Councillor Penny Hulse, Chair of the Environment and Community Committee, and Councillor Chris Darby, Chair of the Planning Committee, and their respective deputies.

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Auckland Council is the unitary authority for Auckland, a region containing a third of New Zealand's population. Auckland Council is responsible, under the Resource Management Act 1991 (RMA), for managing the region's coastal marine area.

Auckland Council's decision-making is carried out by a governing body, which considers regional matters and is made up of the mayor and 20 councillors, and 21 local boards made up of 149 members who consider local community matters.

All local boards were provided a brief opportunity to provide their views on the Proposed National Environmental Standard for Marine Aquaculture prior to this submission being considered and approved by the council's Planning Committee. Council staff received no formal feedback.

Auckland Council also provided mana whenua of the region an opportunity to provide their thoughts for consideration in preparation of this submission. Council staff received no formal feedback.

Introduction

1. Auckland Council appreciates the opportunity to comment on the proposed National Environment Standard for Marine Aquaculture (the Standard) released for public consultation on 14 June 2017 by the Minister for Primary Industries and the Minister for the Environment.
2. The proposed Standard seeks to provide a more efficient and certain consent process for managing existing marine farms within environmental limits and seeks to implement a nationally consistent framework for biosecurity management on all farms.
3. In preparing its submission, Auckland Council considered the provisions for aquaculture in the recently developed Auckland Unitary Plan, the strategic direction set in the Auckland Plan, views of subject matter experts and the alignment with key council strategy documents, and a recently completed non-statutory marine spatial planning initiative for the Hauraki Gulf – Sea Change – Tai Timu Tai Pari (Sea Change).
4. The submission is structured around the key provisions proposed in the Standard, rather than the detailed questions in the proposal, for brevity and relevance. The submission addresses the topics below:
 - a) Replacement consents for existing farms with no change in species;
 - i) Activity status
 - ii) Matters of discretion
 - b) Re-alignment of farm boundaries;
 - c) Replacement consents for existing farms where there is also a change of species;
 - i) Activity status
 - ii) Matters of discretion
 - d) On-farm biosecurity management plan provisions.
5. Auckland Council agrees with the intent of the proposed Standard and believes it is an appropriate tool to provide national consistency in achieving the objective as stated above.

Auckland context

6. Auckland has 1.1 million hectares of coastal marine area, extending 12 nautical miles from the 1,800km coastline of the region's west and east coasts. Included within this coastal marine area is the Hauraki Gulf – an area recognised in the Hauraki Gulf Marine Park Act 2000 as nationally significant in sustaining the life-supporting capacity of the environment of the Gulf and its islands. Of this coastal marine area, 320ha is used for marine aquaculture farming.
7. There are a total of 80 active marine farms in Auckland that are distributed across the Firth of Thames (19% of total number), Great Barrier Island (10%), Kaipara Harbour (5%), Mahurangi Harbour (55%) and Waiheke Island (11%). The number of active marine farms corresponds to the number of consented marine aquaculture areas within the region. The bulk of the consents for the active marine farms expire on 31 December 2024.
8. Green-lipped mussel and Pacific oyster farming currently prevail in the Auckland region. Of the 320 ha used for marine aquaculture farming, 60% is for used for Pacific oyster farming, 29% is used for green-lipped mussel farming and 11% is used for marine farms which contain both species. Auckland has no finfish farms in the coastal marine area.
9. The Auckland region is not the largest regional aquaculture producer in New Zealand, but produces around a third of the total production of New Zealand Pacific oysters and a minor portion of the total production of New Zealand green-lipped mussels.
10. Based on most recent data available, the aquaculture industry contributed \$72 million of output to Auckland's economy in 2009. This figure includes aquaculture farming and processing¹.
11. The Sea Change – Tai Timu Tai Pari Hauraki Gulf Marine Spatial Plan² (Sea Change) promotes and anticipates a significant increase in the level and range of aquaculture in the Auckland region in particular areas. One challenge

¹ Murray, C., McDonald, G. (2010) Aquaculture: Economic Impact in the Auckland Region, Jointly prepared by the Auckland Regional Council and Market Economics Ltd for the Auckland Regional Council, Auckland Regional Council Technical Report No 009, February 2010. Retrieved from <http://www.aucklandcouncil.govt.nz/SiteCollectionDocuments/aboutcouncil/planspoliciespublications/technicalpublications/tr2010009aquacultureeconomicimpactintheaucklandregion.pdf>

² As at May 2017 Auckland Council's Planning Committee has acknowledged the high level vision of SeaChange and the shared aspirations it has for the Hauraki Gulf.

highlighted in Sea Change which relates to the proposed Standard is that there is a lack of long-term certainty for existing consent holders as their resource consents have time limits.

Approach to Aquaculture within the Auckland Unitary Plan

12. The issues addressed by the proposed Standard were also considered in the development of the Auckland Unitary Plan. The Unitary Plan is a combined plan that comprises a regional policy statement, regional coastal plan, regional plan and district plan for Auckland. It was developed in accordance with the unique statutory process set out in Part 4 of the Local Government (Auckland Transitional Provisions) Act 2010. It notified for submissions in 2013. The Independent Hearing Panel's recommendations and the council's decisions were released in 2016. The appeals to the regional coastal plan component of the Unitary Plan have recently been resolved and the plan will soon be sent to the Minister of Conservation for approval.
13. The Auckland Unitary Plan policy framework (chapter F2.15) requires that new aquaculture be located and designed to avoid adverse effects on various listed values, and provides for the continued operation of established aquaculture where the adverse effects can be avoided, remedied or mitigated. The Plan does not include zones or areas for aquaculture.
14. The policy approach is directive in terms of avoiding adverse effects on the values of identified areas (mapped as 'overlays'), for both new aquaculture and for re-consenting established aquaculture areas. The values identified by the overlays reflect the matters of national importance in section 6 of the Resource Management Act (RMA), and give effect to policies 2, 11, 13, 15 and 17 of the New Zealand Coastal Policy Statement (NZCPS). The overlays are identified as follows:
 - a) D9 Significant Ecological Areas Overlay – Marine 1 and 2;
 - b) D17 Historic Heritage Overlay;
 - c) D21 Sites and Places of Significance to Mana Whenua Overlay;
 - d) D11 Outstanding Natural Character and High Natural Character overlays; and
 - e) D10 Outstanding Natural Features Overlay; and Outstanding Natural Landscapes Overlay.
15. The rules relating to aquaculture are primarily within Table F2.19.19 of the Auckland Unitary Plan. Generally, the council's approach to aquaculture is to

have a more restrictive activity status within the overlays than other areas. For re-consenting an established aquaculture activity, the activity status is restricted discretionary both within overlays and in other areas.

16. All aquaculture activities in the Unitary Plan are subject to the standard RMA test for notification.

Overview of submission points

17. Auckland Council agrees with the overall intent and approach taken in the Standard for re-consenting, re-alignment and change of species for existing marine farms. Notwithstanding, Auckland Council has concerns about aspects of the proposed Standard. These relate to:

- a) non-notification for re-consenting of existing farms, realignment and some changes of species;
- b) the limited matters of discretion, particularly the exclusions of 'high natural character areas', 'Significant Ecological Areas', water quality; mana whenua values and ecology of the wider area; and
- c) the role of council in approving and ensuring compliance with on-farm Biosecurity Management Plans.

18. Auckland Council supports the proposal that a discretionary activity rule be included in the Standard for existing marine farms that may, through future planning processes, be determined to be in inappropriate locations. This measure, along with a council's ability to set the duration of a replacement consent would be an appropriate way to grandfather out existing consents if a more appropriate use of marine space or surrounding land was identified in the future.

Replacement consents for existing farms with no change in species (Re-consenting)

19. Auckland Council agrees with the overall intent and approach taken in the Standard for re-consenting existing marine farms. The approach is similar to that in the Auckland Unitary Plan which also has a restricted discretionary activity status for re-consenting. However, Auckland Council disagrees with re-consenting being non-notified and the narrow framing of the matters of discretion.

20. Auckland Council submits that:

- a) the restricted discretionary activity status should be retained for re-consenting of existing farms;
- b) all re-consenting applications should have the standard RMA test for notification applied (as a second preference, the standard test should be required at least for larger farms (for example, those over 10 ha)); and
- c) the matters of discretion should be expanded to include:
 - i) the consideration of high character areas and significant ecological areas;
 - ii) ecological values of the bay and wider region;
 - iii) explicit consideration of mana whenua values; and
 - iv) water quality.

Activity status

21. The Unitary Plan classifies re-consenting for aquaculture activities as restricted discretionary across its General Coastal Marine Zone provisions and for all overlays. This is consistent with the restricted discretionary activity classification proposed in the Standard, and council supports the use of this activity status.

Notification

22. Non-notification is proposed in the Standard for re-consenting whereas the Auckland Unitary Plan applies the standard RMA test for notification. There are only a limited number of activities specified as non-notified in the Unitary Plan. Notification provides the public the opportunity to provide information and evidence on effects that may have occurred over the life of the farm that councils may not otherwise be aware of. Additional information on the impacts on other users of the coastal marine area can be gleaned through notification and is particularly helpful in considering matters such as navigational safety.

23. The council's preference is that the standard RMA tests for notification be applied to all re-consenting of marine farms. At the least, the standard notification tests should be applied to re-consenting larger farms. A possible size limit would be 10 ha as is proposed for the realignment proposal. Auckland Council believes that for larger farms the cumulative effects over time and their interaction with other users in the marine space may be more significant and additional information from the public would be useful in assessing applications for re-consent.

Definition

24. The Unitary Plan defines existing farms as those established prior to September 2013, which is the date the Proposed Unitary Plan was notified. Auckland Council supports the definition of existing farms as drafted in Appendix F of the proposed Standard.

Matters of discretion

25. The matters of discretion that apply in the Unitary Plan differ from those in the proposed Standard. The proposed Standard has very specific matters of discretion depending on whether the existing farm is in an 'outstanding area' and whether supplementary feeding is used. The Unitary Plan matters of discretion relating to re-consenting are broader in their consideration.
26. The areas of concern that council has with the matters of discretion proposed in the Standard include the lack of consideration of recognition of other overlays in the Unitary Plan, and of the impacts on ecological function, water quality, mana whenua values, and cumulative effects that farms may have. These are important considerations within the Unitary Plan's matters of discretion relating to re-consenting marine farms.
27. Most marine farms in Auckland were established under the Marine Farming Act 1971 that preceded the RMA. This means that marine farms would have faced different consideration of environmental effects than would be assessed today. There may have also been changes in the environment over time for other reasons and changes with other marine or land-based activities. This means that the relative impact of a marine farm may also change over time. For these reasons it is important to be able to consider the range of impacts a marine farm may have in the context of its wider environment.
28. The matters of discretion also determines what conditions, including monitoring requirements, can be set on restricted discretionary activity consents. For some potential impacts, such as water quality and benthic ecology, collecting monitoring data over time will enable more adaptive management of any effects and better inform any future planning decisions on aquaculture in an area.
29. For these reasons Auckland Council strongly recommends a wider range of matters of discretion are included as described below.

High Natural Character Areas and Significant Ecological Areas

30. Auckland Council is concerned with the narrow framing of the matter of discretion pertaining to outstanding areas. The wording used in the Unitary Plan is 'where the activity is within an overlay, effects on the characteristics and qualities of the overlay'. The relevant overlays are listed above. The overlays of particular concern which are not covered by the proposed Standard are the overlays for areas of 'high natural character' and 'significant ecological areas'. (We are not aware of any existing farms which are in the Historic Heritage overlay or the Sites and Places of Significance to the Mana Whenua overlay.) As currently proposed in the Standard, the matter of discretion would exclude consideration of key overlays in the Unitary Plan which currently have several marine farms within them.
31. The Standard (Appendix I) defines outstanding areas as those identified as areas of outstanding natural character, outstanding natural landscapes and outstanding natural features. These reflect RMA section 6(a) and (b), and NZCPS policies 13 and 15. The Unitary Plan includes mapped overlays for areas with these values. However, the Unitary Plan also includes areas of 'High Natural Character' in response to NZCPS policy 13(1)(c). The council considers that the Standard definition of 'outstanding areas' should be expanded to include areas identified as having 'high natural character'. Although the NZCPS has a more restrictive policy approach for areas of outstanding natural character, it specifically requires the identification of areas of 'high natural character'. Where such values are identified, they should be considered in a consent process. This would not require that a restrictive 'avoid adverse effects' approach be taken but would give appropriate consideration to how any adverse effects should be managed.
32. Auckland Council believes that the approach taken in the matters of discretion for areas identified as 'outstanding areas' should also be applied for areas identified as having ecological or biodiversity significance in terms of RMA section 6(c) and Policy 11 of the NZCPS. These areas are important to the on-going biological diversity and ecological health of our coastal habitats and can be adversely affected by marine farming activities.
33. The Unitary Plan applies similar approaches to the management of natural character, landscapes, features and biodiversity. The Unitary Plan sets criteria to use in identifying these areas and ensures appropriate protection through applying overlays and associated rules. Auckland Council notes that the national planning standards currently being developed by the Ministry for the

Environment are proposed to include the use of overlays as a way of identifying and responding to the matters of national importance.

Ecological values

34. Auckland Council believes ecological values are insufficiently considered in the matters of discretion proposed. Auckland Council proposes that:

- a) the adverse impacts on seabed features and biogenic habitats should be expanded to include adverse impacts on the role of those features and habitat in supporting ecology in the wider bay or region; and
- b) ecological values are included as a matter of discretion to allow for consideration of the interaction between marine farming and the surrounding ecology and healthy functioning of those ecosystems.

Water quality

35. Including water quality as a matter of discretion means that impacts of marine farms on water quality can be better monitored over time.

36. In addition there may be changes in water quality over time that makes an area unsuitable for aquaculture. Having the ability to set consent conditions requiring collection of water quality data means that future planning decisions can be better informed.

Mana whenua values

37. There is no mention in the body of the discussion document on how mana whenua values will be considered. Auckland Council notes that Appendix F states that tangata whenua values are being developed in further consultation with iwi. Auckland Council believes it is important to consider mana whenua values in granting a consent. In the Unitary Plan this is addressed by having effects on mana whenua values as a matter of discretion. Such values can be identified by iwi and may not be limited to sites identified in a plan as being of particular significance.

Realignment

38. Auckland Council supports the criteria proposed for the scale of realignment of existing marine farms to be provided for as a restricted discretionary

activity. The approach is similar to that in the Unitary Plan except that there is no size limit specified in the Unitary Plan. However, most marine farms in Auckland are under the 10ha size limit proposed so the proposal is practicable for the Auckland region.

39. Auckland Council agrees that it is appropriate for small realignments as proposed to be restricted discretionary and for the normal RMA tests for notification to apply.
40. Auckland Council supports that the realignment provisions would not apply where the realigned portion of the farm would be in areas identified as outstanding area, or areas with significant ecological values or where new aquaculture is classified as non-complying or prohibited. As noted earlier, the same approach should be taken to areas identified as 'high natural character'. The Unitary Plan's current approach is a discretionary activity status for small re-alignments within all overlays, given the high or outstanding values associated with these areas, in comparison with the General Coastal Marine Zone.
41. If, however, a restricted discretionary activity status prevails within the Standard for high natural character areas, Auckland Council suggests an additional matter of discretion be applied with respect to identified overlay areas, as discussed in the re-consenting matters of discretion above.
42. Not having these matters of discretion runs the risk that marine farm permits could technically be granted with no consideration of the marine farms effects on surrounding ecological values. This could cause a number of negative impacts; such as reducing a species range which is dependent on a particular habitat type.

Replacement consents for existing farms where there is also a change of species

43. Auckland Council understands that the change of species categories are organised primarily by change of structure with the effects of the change in species being secondary.
44. The categorisation of changes, along with the associated matters of discretion and notification is a more refined and nuanced treatment of likely species changes than is provided for in the Unitary Plan. Auckland Council supports this approach as it provides for marine farmers to apply for changes in

species which fit within the existing marine farm and would have the least impact.

45. A change in species is not specifically provided for in the Unitary Plan. It would generally be processed under the provisions for a new consent (rather than for 're-consenting'). A small-scale change in species may fall within the Plan's provisions for experimental aquaculture (limited to 1 ha).
46. Auckland Council supports the restricted discretionary activity status being applied to Categories 1-4 as proposed.
47. Auckland Council disagrees with the proposals regarding notification and believes all categories should have the standard RMA test for notification applied to them. This gives the opportunity, if the test requires notification, for additional information from the public relating to the matters of discretion to be considered.

Matters of discretion

48. Auckland Council believes the matters of discretion proposed are too limited in their consideration. Auckland Council submits that the following matters of discretion should be included for all categories of species change, similar to those discussed above in relation to re-consenting:
 - a) high natural character and significant ecological areas – these should be considered in addition to the outstanding areas;
 - b) ecological values – consideration of the interaction between marine farming and the surrounding ecology and healthy functioning of those ecosystems; and
 - c) hydrodynamics – consideration of hydrodynamic effects for all the proposed categories as there is the potential for effects for all categories, not just category 2.

On-farm biosecurity management plan provisions

Using on-farm Biosecurity Management plans to address biosecurity risks.

49. Auckland Council supports the key objective in the proposed Standard of achieving consistent and effective biosecurity practices in marine farming nationally and at each marine farm.

50. Marine farms are a potential vector for the movement and transfer of marine pests and diseases within a region and between regions which can have a negative impact on the environment.
51. Auckland Council, currently through consent conditions, requires a number of consented marine farms to have up to date Biosecurity Management Plans (BioMPs).
52. Auckland Council is concerned that BioMPs do not address the risk of inter-regional vector movements, and strongly advocates for a Domestic Marine Pathway Management Plan to address these risks.
53. Pest species may arrive via vectors relating to other marine activities, such as commercial shipping and recreational boating and fishing, and then establish themselves within a marine farm and further spread from there.
54. A comprehensive and integrated approach is required to fully manage biosecurity risks both to marine farms and from marine farms on the surrounding environment. Having both BioMPs and a complete Domestic Marine Pathway Management Plan is the only way to achieve this.
55. Auckland Council supports the provision that existing coastal permits can be reviewed and required to prepare BioMPs. Not doing so runs the risk of 36% of marine farms, whose coastal permits only expire post-2025, to operate for many years without any biosecurity management measures. However, Auckland Council believes that these reviews should be either subsidised or cost recoverable. One benefit of this approach is it provides an incentive for smaller councils with fewer resources than larger councils to undertake these reviews.

Implementation of Biosecurity Management Plans

56. Auckland Council supports marine farm monitoring and reporting as well as external auditing and enforcement of BioMP implementation. Auckland Council also supports the 'incentive approach' – whereby farms which have track records of maintaining high standard BioMPs are audited less frequently than those who do not. Auckland Council currently performs compliance monitoring.
57. Auckland Council staff note that there is the added bonus of monitoring marine farms in that early warning detection becomes improved given that these structures and the associated activities are considered high-risk.

Auckland Council recommends that species records be required to be reported, and compiled into one central database (e.g. MPI's marine biosecurity portal).

58. Auckland Council has a number of concerns with the implementation of the biosecurity provisions. These are:

- a) the risk in delaying until 2025 the requirement to have BioMPs; and
- b) the capability and capacity within both industry and councils to comply with BioMPs.

Timeframe

59. Auckland Council disagrees with the 1 January 2025 timeframe and suggests an earlier date. Under section 43A(1)(f) of the RMA, local authorities can require consent reviews at any time during a consent period. Therefore, a BioMP could be required through this process when the Standard is approved. Under this approach, it would be critical for MPI to ensure that guidance for BioMPs is available at the same time as the Standard is gazetted.

60. Auckland Council believe it is unnecessary to allow seven years to prepare BioMPs, considering this has been a consent condition in place for a number of them already. This distant timeline may undermine the current conditions that are already in place, as marine farmers can argue that BioMPs are not required until 1 January 2025.

61. For local authorities that do not conduct reviews under section 43A(1)(f) (for various reasons i.e. lack of resourcing) this may result in some marine farms around the country having no biosecurity management measures for seven years – threatening environmental, social, cultural and economic risks. We seek to reduce biosecurity threats and see this as a current risk to successful marine biosecurity outcomes. There is nothing stopping local authorities from undertaking reviews as soon as MPI and MFE formally release the Standard and guidance material.

Capacity and capability

62. The requirement on councils to approve and monitor the compliance of BioMPs will most likely be a significant resourcing burden. Councils can only cost recover for actual time spent inspecting farms. This does not adequately cover the staff time required to gain knowledge, stay up to date and the administrative operation of BioMPs. This is an existing challenge for Auckland

Council and for other councils. The recent disease outbreak in Southland demonstrates that having a BioMP on its own is not adequate – regular monitoring and auditing of compliance is required and needs to be done by appropriately qualified people.

63. Much of the biosecurity risk falls on marine farmers. For this reason Auckland Council believes the following would be required for BioMPs to be effective in managing biosecurity risks:

- a) Templates – providing a BioMP template, along with the guidance handbook, would provide consistency across regions and make the process easier for applicants, regional councils and any third party assessor;
- b) Regionally significant marine pests – management measures for pests that are regionally significant to the industry and marine environment should be detailed in the BioMP, even if the pest is not identified in a Regional Pest Management Plan;
- c) Pest identification training - Auckland Council strongly recommends that marine pest identification training workshops be developed and delivered regularly to capture staff turn-over appropriately. These workshops should be offered to any person who is expected to be able to identify marine pests, including auditing personnel and aquaculture farm workers; and
- d) External professionals - engaged with to assist in certifying, auditing and enforcing BioMP due to major resourcing constraints.

Costs and benefits arising from the Standard

64. Auckland Council is concerned that the costs of implementing the Standard have not been adequately considered. There is an initial cost to councils of inserting the rules and provisions of the Standard into their plans. For Auckland Council the changes to plan rules would potentially be medium impact.

65. The greater issue is the on-going cost to council of reviewing, approving and auditing on-farm biosecurity management plans. Regional councils do not have the capacity or capability to do this at present. The ability to cost recover for staff time in doing this work is limited so this requirement would place an on-going burden on councils.

66. A broader consideration of the costs to councils and relative benefit of council implementing biosecurity management regime for marine farms should be included in any section 32 report for the Standard.
67. Auckland Council strongly recommends that further thought be given to biosecurity management being supported through Aquaculture New Zealand or similar national organisations which serve their members in preparing plans and to cost recover the services of a third party to carry out audits of on-farm biosecurity management plans.