



Ministry for the
Environment
Manatū Mo Te Taiao



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa



Department of
Conservation
Te Papa Atawhai

REPEALED AND TRANSITIONAL PROVISIONS:

Guide to Marine Farming Consent Conditions for Deemed Coastal Permits



Photo courtesy of the New Zealand Mussel Industry Council Inc.

NOTE: This guide is not applicable to new coastal permits within aquaculture management areas (AMAs).

June 2006



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INTRODUCTION

The Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (ARA) [<http://rangi.knowledge-basket.co.nz/gpacts/public/text/2004/an/109.html>] provides councils with an opportunity to review the conditions of all deemed coastal permits (sections 10(4), 20(3) and 21(3) ARA). The review can involve varying, adding or deleting conditions to make them consistent with the Resource Management Act 1991 (RMA), but must not amend the species or area covered by the permit (sections 10(5), 20(4) and 21(4) ARA). Councils intending to review the conditions of deemed coastal permits need to have begun their review within 12 months of 1 January 2005 (that is, before 1 January 2006).

A deemed coastal permit is a lease or licence that is deemed to be a coastal permit under section 10(1) ARA, or a marine farming or spat catching permit deemed to be a coastal permit under section 20(1) and 21(1) ARA, respectively. The leases and licences were issued under the now repealed Marine Farming Act 1971 and included all the authorisations necessary for the marine farming activity.

The marine farming and spat catching permits were issued under the Fisheries Act 1983 and authorised the marine farming and spat catching activities only. However, the farmer would have obtained all necessary coastal permits under the RMA before applying for their marine farming or spat catching permit.

The difference between the leases and licences and marine farming and spat catching permits, and how the deeming provisions apply, is shown in Figure 1. A key difference is the marine farming and spat catching permits also have accompanying RMA coastal permits, which are retained and not affected by the transitional provisions of the ARA. The intent of the transitional provisions was to enable lawful marine farmers to continue farming with the coastal permits necessary under the RMA.

The ARA provides for those deemed permits shown in the black boxes to be reviewed. With respect to the existing RMA coastal permits (associated with the marine farming or spat catching permits), these can be reviewed by the council in accordance with section 128 of the RMA, or at the request of the permit holder in accordance with section 127 of the RMA.

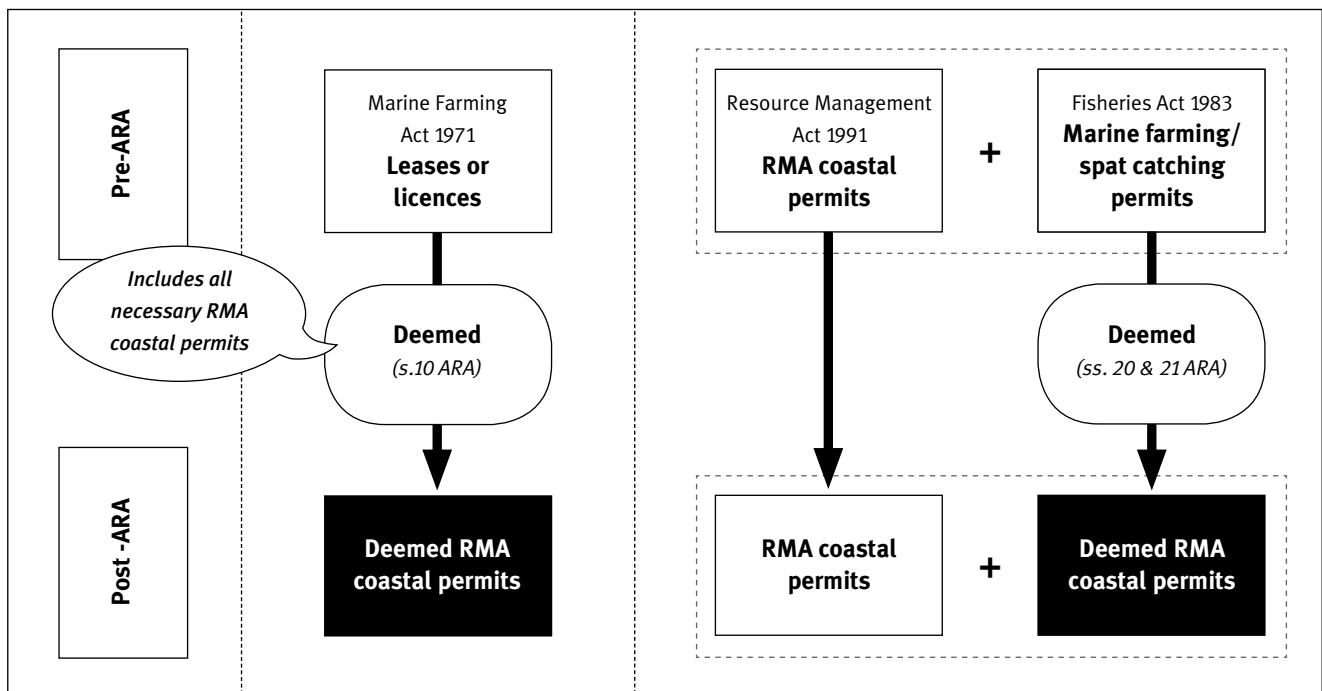


Figure 1: Marine farming authorisations, before the ARA (Aquaculture Reform Act 2004) and after the ARA. The deemed coastal permits in the black boxes are the subject of this guide.



SCOPE OF THIS GUIDE

This guide is the outcome of one of 14 national aquaculture reform implementation projects that aim to support councils in planning for aquaculture¹. It provides guidance on the type of conditions applicable to deemed coastal permits. These conditions cover generic issues and are intended as a guideline for councils, to sit alongside any conditions specific to the region, site or individual application. Because they are generic, they may need to be considered in light of specific circumstances of an individual farm and region. The guide does not cover conditions that could be applied to new coastal permits for aquaculture within aquaculture management areas (AMAs).

Two separate national aquaculture reform implementation projects (the planning guidance [Project VI] and information guidance [Project VII] for future AMAs) will provide guidance and information to support planning for new aquaculture activities.

Note that when considering conditions for deemed coastal permits, councils should also have regard to their own standard procedures for resource consents. For example, administrative charges have not been included in these guidelines as these are general consent issues for which councils will already have standard procedures.

STRUCTURE OF THIS GUIDE

The guide is structured as follows:

- Part 1 describes generic issues that the suggested consent conditions address, such as a marine farm's location and navigational safety. At the end of each explanation, suggested wording for a relevant consent condition(s) is provided.
- Part 2 identifies and discusses other matters that consents officers may need to consider when assessing consent conditions, but which are not covered by the conditions suggested in this guide. Work is still underway in relation to these matters.
- Part 3 repeats the full list of the suggested consent conditions outlined in Part 1, for ease of reference. These are followed by advice notes for coastal permit holders that can be attached to the reviewed deemed coastal permits.

¹ The Aquaculture Reform Implementation Programme is available on the Aquaculture Workspace, which is available to staff in councils, the Department of Conservation, Ministry of Fisheries and Ministry for the Environment to share relevant resources to support implementation of the aquaculture reform. Further information on the Workspace is available from the Ministry for the Environment. Otherwise, the Implementation Plan is explained further on the MfE website at www.mfe.govt.nz/issues/resource/aquaculture/implementation.html, including an email link to request a copy.

PART 1: ISSUES AND EXPLANATIONS

1.1 Commencement and duration of deemed coastal permit

The deemed coastal permits created from marine farming leases and licences have a duration of 20 years from 1 January 2005 (section 10(8) ARA). Those created from marine farming and spat catching permits expire on the same date as the original permits, which is normally the same date as the associated coastal permits (sections 20(2) and 21(2) ARA)².

POSSIBLE WORDING FOR CONSENT CONDITIONS FOR DEEMED COASTAL PERMITS

Date of commencement of deemed coastal permits:
1 January 2005 (see advice note 1).

Duration of deemed coastal permits:
[For leases and licences]

This deemed coastal permit shall expire on 31 December 2024 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991 (RMA) (see advice note 1).

[For marine farming permits and spat catching permits]

This deemed coastal permit shall expire on *(insert EXPIRY DATE from original permit)* unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the RMA (see advice note 1).

1.2 Activities authorised by the deemed consent (condition 1)

Marine farm leases and licences issued under the Marine Farming Act 1971 are deemed coastal permits by section 10 of the ARA. The deemed coastal permits for the former marine farm leases and licences are comprehensive consents that provide all authorisations necessary to carry out the activity, including structures, discharges and occupation of space in the coastal marine area (ARA section 10(9)).

Marine farm and spat catching permits issued under sections 67J and Q of the Fisheries Act 1983 are deemed coastal permits by sections 20 and 21 of the ARA. The marine farming and spat catching permits issued under the Fisheries Act authorise the activity of marine farming or spat catching only (sections 20(6) and 21(7) ARA). However, before obtaining the marine farming permit, a coastal permit would have been granted by the relevant council that addresses occupation and all other necessary authorisations as required under the RMA.

POSSIBLE WORDING FOR CONSENT CONDITION 1

Activities authorised by this consent

[For leases and licences]

1A This coastal permit authorises:

- i. the marine farming of *[enter SPECIFIC SPECIES here]*, and
- ii. the associated existing structures and
- iii. the associated discharges and
- iv. the occupation of *X hectares* in the coastal marine area *bounded by the coordinates xxxxxxxx [or on the attached survey plan]* that had previously been carried out pursuant to *[marine farming lease or licence number]* (see advice note 2).

[For marine farming permits]

1B This coastal permit authorises the marine farming of *[enter SPECIFIC SPECIES here]*, including spat catching that had previously been carried out pursuant to *[marine farming permit number]* (see advice note 2).

[For spat catching permits]

1C This coastal permit authorises the taking of spat of *[enter SPECIFIC SPECIES here]*, that had previously been carried out pursuant to *[spat catching permit number]* (see advice note 2).

² Note: A preferential right to apply for a new coastal permit is provided in sections 49 of the ARA Act 2004 and 165ZH and 124 of the RMA. With applications for new coastal permits, the consent can be granted for a duration of up to 35 years (the maximum duration of resource consent under the RMA) and is decided by the council, as the consent authority.



1.3 Density of lines and access-ways (condition 2)

Marine farming leases and licences should have a corresponding structures plan issued under the old Harbours Act 1950 that defines the allowed density of development. These provisions should be retained in the deemed coastal permits. In the case of fisheries permits, the associated RMA coastal permit should include consent for structures, including the density of lines.

For mussel farms, there have been instances where the Ministry of Fisheries has set a limit on the density of lines within the farm because of concerns relating to fisheries resources eg, phytoplankton depletion.

In cases such as these, the density recommended by the Ministry of Fisheries in marine farm permits should be used.

POSSIBLE WORDING FOR CONSENT CONDITION 2

- 2 The number of longlines located within the marine farm boundary shall not exceed *[X]* per hectare (refer to advice note 3).

1.4 Structure details to Maritime New Zealand (condition 3)

Although Maritime New Zealand (MNZ) should hold information on locations of all the existing farms, inclusion of the following condition may be complementary to the off-site farm process (see 1.5 below). In brief, that process allows councils to amend the deemed coastal permit to reflect the actual space. That process could result in MNZ being aware of the originally authorised location but not the actual location. Further, the condition asks for the method of marking to be provided to MNZ as the method may have changed since the farm was established.

MNZ would like to see this condition remain in the deemed coastal permits to ensure that it maintains up-to-date information.

POSSIBLE WORDING FOR CONSENT CONDITION 3

- 3 The coastal permit holder shall provide Maritime New Zealand (MNZ) and Land Information New Zealand (LINZ) written notice of the details of the structure(s) including their geographic location and method of navigation marking by 1 July 2007 (*this date will vary depending on council workload/timeframes and when it anticipates completing any review of off-site farms*).

Exception: This condition does not apply if MNZ and LINZ have been previously notified of the correct location and current methods of marking the marine farm.

1.5 Compliance with authorised location (condition 4)

In the past, it was not uncommon for farms to be developed in the wrong location (off-site), largely due to the inadequacies of surveying techniques at the time. Current differential GPS technology allows structures to be precisely located so this is unlikely to be such an issue in the future.

Section 53 of the ARA allows the area authorised by a deemed coastal permit to be adjusted to take into account the actual location of an off-site farm. Farmers and councils have until 31 December 2006 to initiate the off-site farm process to allow the consent authority to either amend the deemed coastal permit to reflect the actual space or require the farm to be moved to the deemed permitted area.

Beyond that time, there will still be a need to monitor the location of farms, although the new technology means off-site farms are unlikely to be common. Councils should include a condition allowing them to require the coastal permit holder to provide coordinates of the farm structures to confirm they remain correctly sited and within the authorised size. The example condition allows for a quick rough check of coordinates and for a precise detailed survey plan. It is anticipated that councils will request whichever best provides the detail and degree of accuracy required at the time.

All structures associated with a farm, including anchors, must fall within the boundaries authorised by the deemed coastal permit. It should be noted that mussel lines will move with waves and tidal currents and this should be taken into account when surveying to determine whether or not a farm is within its authorised area.

The first stage of Marlborough District Council's (MDC) approach to dealing with off-site farms has been documented and made available to all regional councils and unitary authorities as an example of best practice on the Aquaculture Workspace³.

POSSIBLE WORDING FOR CONSENT CONDITION 4

- 4 The coastal permit holder shall, if requested by the council in writing, provide the following:
- i. a survey plan prepared by a registered surveyor that defines the boundary of the marine farm (to an accuracy as stated on request from the council) and the position of the structures
 - ii. map references of the corner points of the marine farm(s) (to an accuracy of plus or minus 10 metres).

This information shall be provided to the council as soon as is practicable but no later than two months from the date of receipt of that request.

NB. The survey plan shall be made in accordance with the Surveyor General's Rules for Cadastral Survey 2002/2, or any regulations made in substitution thereof. The location coordinates are to be in Geodetic Datum 2000, New Zealand Transverse Mercator Projection.

1.6 Navigation, safety, marking and lighting of farms (conditions 5 to 7)

Marine farms must be marked and lit to appropriate standards for navigation safety purposes. These are defined by Maritime New Zealand (MNZ) and stated in its *Guidelines for Aquaculture Management Areas and Marine Farms*. Although this is a guideline, and is not legally binding, it does carry a lot of weight as a best practice guideline. The December 2005 version of these guidelines is on the MNZ website:

www.msa.govt.nz/consultation/pandh_docs/GuidelineForAquacultureManagementAreas&MarineFarms.pdf.

The corner points of the farm should be marked with the coastal permit holder's name and number to help identify the farm. These markings should be visible from at least 10 to 20 metres. Buoys are occasionally lost from mussel lines. If this is a particular issue for the region, a condition should be used that requires the branding of all buoys with the owner's contact details.

Where the farm is contiguous with other farms, a joint lighting plan can be adopted. The example condition does not create an onus for a joint lighting plan but allows flexibility for coastal permit holders to choose to do so. The content and detail required in the lighting plan will be appropriate to the scale and type of the marine farm.

Condition 7 provides for lost marine farm structures. This could be anything from part of a farm to the whole farm coming adrift. Because lost marine farming structures could constitute a navigation and safety hazard, the coastal permit holder should be required to take action immediately, such as informing the council harbourmaster and MNZ, and finding and retrieving any lost structures.

³ The Aquaculture Workspace is available to staff in councils, the Department of Conservation, Ministry of Fisheries, Ministry for Economic Development, New Zealand Trade and Enterprise and Ministry for the Environment to share relevant resources to support implementation of the aquaculture reform. Further information on the Workspace is available from the Ministry for the Environment.



**POSSIBLE WORDING FOR CONSENT CONDITIONS
5, 6, AND 7**

Navigation, safety, marking and lighting

- 5 The coastal permit holder shall ensure that marine farming structures are laid out and the boundaries of the marine farm marked and lit in accordance with the navigation and safety requirements of Maritime New Zealand (MNZ) and the council harbourmaster or their delegate. This condition will be satisfied by complying with MNZ guidelines for aquaculture areas: *Guideline for Aquaculture Management Areas and Marine Farms*, MNZ December 2005.
- 6A **[For longline farms]** Each buoy shall be permanently branded so as to clearly identify its ownership. Each corner of the marine farm structures and the middle of each of the seaward-most and landward-most longlines shall be marked with an orange marker buoy of a minimum diameter of 0.5 metres. The coastal permit holder shall provide confirmation to the council that this has occurred within **[appropriate timeframe]**.
- 6B **[For oyster farms]** Each marine farm shall be marked with white posts extending 2 metres above mean high-water spring tide positioned at the corners and at intervals of not more than 50 metres apart on the marine farm structures between each corner. A clear and legible sign shall be fixed to each corner of the farmed area with the coastal permit holder's name and deemed coastal permit number written on it.
- 7 If any part of the marine farming structures is lost into the marine environment so that it could constitute a navigational or safety hazard, the coastal permit holder shall inform the council harbourmaster and MNZ immediately. The coastal permit holder shall also undertake all necessary steps to find and retrieve the lost structure.

**1.7 Removal of derelict structures
(condition 8)**

A principle that underlies the private use of public space is that if a private use ceases, all structures associated with that use must be removed and the site rehabilitated. Rehabilitation means restoring the site to as close to its original state as is practicable. A key part of that is preventing any further adverse effects on the environment.

POSSIBLE WORDING FOR CONSENT CONDITION 8

Removal of derelict and/or unused structures

- 8 The coastal permit holder shall inform the council should they cease to farm the area in which it is authorised to place structures by this coastal permit. The structures authorised by this coastal permit shall be removed by the coastal permit holder within **[timeframe as appropriate to the type and scale of marine farming]** of the date of ceasing to farm this area or as soon as practicable thereafter, and the site rehabilitated by the coastal permit holder to the extent practicable.

1.8 Structural integrity and waste removal from the farms (conditions 9 and 10)

Due to the nature of the marine environment, there is a risk of structures breaking loose in extreme weather conditions and due to wear and tear on materials. This can result in a hazard for other users of the coastal marine area. Regular maintenance is in the coastal permit holder's best interest but should also be a consent condition so that compliance can be enforced.

As well as avoiding the creation of a hazard or inconvenience for other users of the coastal marine area, maintaining structures and keeping lines under tension can also reduce the risk of marine mammal entanglement.

All non-biodegradable waste material should be removed from the coastal marine area. The industry has been proactive and many farmers are involved in beach clean-up operations. Monitoring by the Group A consortium of Wilson Bay, on the western coast of the Coromandel Peninsula, has found marine farming waste comprises an average of 17 percent of the volume of waste collected during seven clean-ups. The Mussel Industry Environmental Code of Practice (currently being reviewed) states that "...boat operators will not knowingly discard synthetic or non-biodegradable materials into the marine environment".

POSSIBLE WORDING FOR CONSENT CONDITIONS 9 AND 10

Structural integrity and waste removal

- 9 The coastal permit holder shall maintain all structures to ensure they are restrained, secure and in working order at all times so as to not create a navigational hazard.
- 10 The coastal permit holder shall take whatever steps are deemed necessary to retrieve from the coastal marine area any non-biodegradable material which has escaped from the marine farm activities.

1.9 Discharges (condition 11)

The deemed coastal permit for a former lease or licence issued under the now repealed Marine Farming Act 1971 also includes those discharge permits (among others) that would have been required under section 15 of the RMA to discharge contaminants into the coastal marine area, to the extent the discharge activity was being undertaken as at 1 January 2005.

The deemed coastal permit for a former marine farming permit or spat catching permit issued under the Fisheries Act 1983 does not include a coastal permit for discharges under section 15 of the RMA (Figure 1). However, the related coastal permit that would have been obtained from the regional council or unitary authority before the marine farming or spat catching permit should address any discharge authorisations.

Condition 11 is self-explanatory. Councils most likely include a condition like this on all consents for activities undertaken in the coastal marine area – not just marine farming – and most councils are likely to have a further standard condition that requires a contingency plan to be prepared and followed in the event of accidental discharges of contaminants.

POSSIBLE WORDING FOR CONSENT CONDITION 11

Discharges

- 11 The coastal permit holder shall ensure that, other than those authorised in association with the normal operation of the marine farm, there is no discharge of contaminants such as oil, diesel, petrol or effluent, to the coastal marine area as a result of the exercise of the deemed coastal permit.



1.10 Review condition (condition 12)

It is common practice for councils to include a review condition in resource consent conditions. The RMA requires the purposes for which a council-initiated review may be undertaken to be specified in the consent (section 128 RMA). There may be specific purposes that councils might consider including in a review condition, such as the other matters discussed in Part Two: Other Matters to be Considered.

Section 128(1)(a) of the RMA provides that a review of consent conditions can be undertaken “*At any time or times specified for that purpose in the consent...*” and for any of the purposes listed in subsection 128(1)(a)(i) to (iii). Including a review condition such as condition 12 with the interval and review dates specified, provides certainty for marine farmers about when their permit could be reviewed.

POSSIBLE WORDING FOR CONSENT CONDITION 12

Review Condition

12 The conditions of this deemed coastal permit may be reviewed by the council, pursuant to section 128 of the RMA, by the giving of notice pursuant to section 129 of the RMA, at ***[enter review interval here] yearly intervals*** in order to: address any adverse effect on the environment that may arise from the exercise of the deemed coastal permit and which it is appropriate to deal with at a later stage.

PART 2: OTHER MATTERS TO BE CONSIDERED

2.1 Monitoring

The majority of deemed coastal permits relate to sites that have been occupied for a number of years and it is therefore likely that most environmental effects have already occurred. Very few of these existing farms have been subject to environmental monitoring in the past but considerable research has been carried out on the environmental effects of mussel farming. Where these effects are well documented, in Marlborough for example, the need for monitoring is greatly reduced or even eliminated entirely. However, monitoring might be appropriate, depending on site-specific circumstances, where current information cannot be applied, or where there is concern in the area. Where deemed permits authorise fish farming, the monitoring conditions should be assessed on a case-by-case basis.

Guidance on monitoring is currently being prepared as part of the Information Project (Project VII, being led by the Department of Conservation and the Ministry of Fisheries in the national aquaculture reform implementation programme). The guidance will concentrate on the high-level principles of monitoring, in order to focus thinking on what proposed monitoring is designed to achieve. Monitoring needs to be scientifically robust, useful and able to contribute to a management response. It is preferable that monitoring information is publicly accessible.

The Ministry for the Environment has undertaken some work on reviewing the consistency of monitoring of marine farms. This has involved assessing who has done what monitoring where, at what cost, and who paid for the monitoring. This work acknowledges that the industry has a number of compliance monitoring requirements to meet, and in reviewing the information collected the Ministry will be seeking to ensure there is no duplication of monitoring requirements and also to identify examples of good practice. Results will be available later this year.

2.2 Biosecurity

Biosecurity New Zealand's concerns in relation to aquaculture focus on introductions of new species to New Zealand and the spread of existing species around New Zealand. There are some basic actions that would help reduce the biosecurity risk, and therefore the adverse impacts, to the marine environment and related industries. These actions are:

- early detection
- early notification
- collection of information on movement of stock and equipment around New Zealand
- action to avoid the transfer of 'species of concern' around New Zealand.

'Species of concern' may fall into one (or more) of the following categories:

- unwanted organisms under the Biosecurity Act 1993
- notifiable organisms under the Biosecurity Act 1993
- organisms not normally seen in New Zealand
- pests in a regional pest management strategy under the Biosecurity Act 1993
- organisms of concern to industry.

Early detection

The earlier a 'species of concern' is detected and notified the more likely effective action can be taken. Biosecurity New Zealand undertakes surveillance for new exotic organisms at points of entry into New Zealand. Aquaculture industry awareness of, and surveillance for, the full range of species that are of concern would greatly assist Biosecurity New Zealand's surveillance work and facilitate early detection.

Biosecurity New Zealand will work with industry and regional councils to determine what information is currently available within the industry on 'species of concern'. Biosecurity New Zealand has awareness material on a number of 'species of concern'.

Early notification

Significant requirements already exist under the Biosecurity Act 1993 in relation to early notification (see advice note 7).



It is important to note that while *Undaria pinnatifida* and *Styela clava* are unwanted organisms, they are not notifiable organisms and therefore not captured by the reporting requirements under section 46 of the Biosecurity Act. However, the industry code of practice for *Styela clava* requires that “any positive identification or suspected samples found in a clear area must be declared to Biosecurity New Zealand as soon as possible after the find or identification”.

If regional councils and unitary authorities want to include additional requirements to be notified of relevant pests of particular concern to their region, this could be achieved through reference to industry codes of practice where they exist, or a rule in a Regional Pest Management Strategy.

Collection of information on stock and equipment movements

Information on the movement of stock and equipment around New Zealand is important in the event of an incursion to determine possible pathways of spread. This information is also important to assess the biosecurity risk of different activities. Biosecurity New Zealand is reviewing the extent of the information that industry already provides to the Ministry of Fisheries and the New Zealand Food Safety Authority, and does not suggest at this stage any additional conditions relating to the provision of information on the movement of stock and equipment.

Action to avoid the transfer of ‘species of concern’ around New Zealand

It is difficult to develop prescriptive conditions on how farmers must treat their stock, equipment and associated vessels before moving from one location to another without first having detailed information on:

- what is at risk
- what pests and diseases are of concern
- what pathways pose a risk of spread.

Biosecurity New Zealand proposes to fill these knowledge gaps throughout 2006. Once this work has been completed, it envisages working with industry and regional councils to develop risk-based codes of practice and transfer protocols.

Once developed, the risk-based codes of practice and protocols could be implemented through:

- voluntary arrangements
- conditions on resource consents/rules in regional coastal plans (under the Resource Management Act)
- rules in a Regional Pest Management Strategy (under the Biosecurity Act).

For more information, contact Maria Cassidy at Biosecurity New Zealand, email maria.cassidy@maf.govt.nz.

2.3 Bonds

The question of security for abandoned or derelict farms, or farms that break free, is of concern to a number of councils. The requirement under the new legislation that aquaculture can only take place in an AMA, may well make it less likely that a farm would be abandoned (as the permit could be sold), unless the site becomes unsuitable for farming. However, some councils are considering including a condition requiring either a bond or a copy of an insurance policy that will cover the removal of structures and the rehabilitation of the site.

Industry is very concerned about the imposition of bonds on existing farms that have been operating for many years, and the necessity or appropriateness of imposing bonds on new farms. Industry considers there is no history of abandoned mussel farms that would justify bonds. A bond is treated as another loan from the bank and, in a tight economic environment, it could force the closure of some operations.

The Seafood Industry Council presented an initial paper exploring the need for security and alternative methods of achieving bonds at the November 2005 Aquaculture Workshop. The Ministry of Fisheries will provide an historical context to the issues of abandoned structures and adrift marine farms along with a suggested risk framework. This information will be available in July 2006. For more information contact Stephanie Hopkins at the Ministry of Fisheries (03) 548 1069 or Sarah McRae at the Department of Conservation (04) 971 4118.

PART 3: POSSIBLE WORDING FOR CONSENT CONDITIONS FOR DEEMED CONSENTS

DATE OF COMMENCEMENT OF DEEMED COASTAL PERMITS

1 January 2005

DURATION OF DEEMED COASTAL PERMIT

[For leases and licences]

This deemed coastal permit shall expire on 31 December 2024 unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the Resource Management Act 1991 (RMA).

[For marine farming permits and spat catching permits]

This deemed coastal permit shall expire on *(insert EXPIRY DATE from original permit)* unless it has lapsed, been surrendered or been cancelled at an earlier date pursuant to the RMA.

ACTIVITIES AUTHORISED BY THIS CONSENT

[For leases and licences]

- 1A This coastal permit authorises:
- i. the marine farming of *[enter SPECIFIC SPECIES here]*, and
 - ii. the associated existing structures and
 - iii. the associated discharges and
 - iv. the occupation of *X hectares* in the coastal marine area *bounded by the coordinates xxxxxxxx [or on the attached survey plan]* that had previously been carried out pursuant to *[marine farming lease or licence number]* (see advice note 2).

[For marine farming permits]

- 1B This coastal permit authorises the marine farming of *[enter SPECIFIC SPECIES here]*, including spat catching that had previously been carried out pursuant to *[marine farming permit number]* (see advice note 2).

[For spat catching permits]

- 1C This coastal permit authorises the taking of spat of *[enter SPECIFIC SPECIES here]*, that had previously been carried out pursuant to *[spat catching permit number]* (see advice note 2).
- 2 The number of longlines located within the marine farm boundary shall not exceed *[X]* per hectare (refer to advice note 3).
- 3 The coastal permit holder shall provide Maritime New Zealand (MNZ) and Land Information New Zealand (LINZ) written notice of the details of the structure(s) including their geographic location and method of navigation marking by 1 July 2007 (*this date will vary depending on council workload/timeframes and when it anticipates completing any review of off-site farms*). Exception: This condition does not apply if MNZ and LINZ have been previously notified of the correct location and current methods of marking the marine farm.
- 4 The coastal permit holder shall, if requested by the council in writing, provide the following:
- i. a survey plan prepared by a registered surveyor that defines the boundary of the marine farm (to an accuracy as stated on request from the council) and the position of the structures
 - ii. map references of the corner points of the marine farm(s) (to an accuracy of plus or minus 10 metres).

This information shall be provided to the council as soon as is practicable but no later than two months from the date of receipt of that request.

NB. The survey plan shall be made in accordance with the Surveyor General's Rules for Cadastral Survey 2002/2, or any regulations made in substitution thereof. The location coordinates are to be in Geodetic Datum 2000, New Zealand Transverse Mercator Projection.



NAVIGATION, SAFETY, MARKING AND LIGHTING

- 5 The coastal permit holder shall ensure that marine farming structures are laid out and the boundaries of the marine farm marked and lit in accordance with the navigation and safety requirements of Maritime New Zealand (MNZ) and the council harbourmaster or their delegate. This condition will be satisfied by complying with MNZ guidelines for aquaculture areas: *Guideline for Aquaculture Management Areas and Marine Farms*, MNZ December 2005.
- 6A **[For longline farms]** Each buoy shall be permanently branded so as to clearly identify its ownership. Each corner of the marine farm structures and the middle of each of the seaward-most and landward-most longlines shall be marked with an orange marker buoy of a minimum diameter of 0.5 metres. The coastal permit holder shall provide confirmation to the council that this has occurred within **[appropriate timeframe]**.
- 6B **[For oyster farms]** Each marine farm shall be marked with white posts extending two metres above mean high-water spring tide positioned at the corners and at intervals of not more than 50 metres apart on the marine farm structures between each corner. A clear and legible sign shall be fixed to each corner of the farmed area with the coastal permit holder's name and deemed coastal permit number written on it.
- 7 If any part of the marine farming structures is lost into the marine environment so that it could constitute a navigational or safety hazard, the coastal permit holder shall inform the council harbourmaster and MNZ immediately. The coastal permit holder shall also undertake all necessary steps to find and retrieve the lost structure.

REMOVAL OF DERELICT AND/OR UNUSED STRUCTURES

- 8 The coastal permit holder shall inform the council should they cease to farm the area in which it is authorised to place structures by this consent. The structures authorised by this consent shall be removed by the coastal permit holder within **[timeframe as appropriate to the type and scale of marine farming]** of the date of ceasing to farm this area or as soon as practicable thereafter, and the site rehabilitated by the coastal permit holder to the extent practicable.

STRUCTURAL INTEGRITY AND WASTE REMOVAL

- 9 The coastal permit holder shall maintain all structures to ensure they are restrained, secure and in working order at all times so as to not create a navigational hazard.
- 10 The coastal permit holder shall take whatever steps are deemed necessary to retrieve from the coastal marine area any non-biodegradable material that has escaped from the marine farm activities.

DISCHARGES

- 11 The coastal permit holder shall ensure that, other than those authorised in association with the normal operation of the marine farm, there is no discharge of contaminants such as oil, diesel, petrol or effluent, to the coastal marine area as a result of the exercise of the deemed coastal permit.

REVIEW CONDITION

- 12 The conditions of this deemed coastal permit may be reviewed by the council, pursuant to section 128 of the RMA, by the giving of notice pursuant to section 129 of the RMA, at **[enter Review Interval here]** yearly intervals in order to: address any adverse effect on the environment which may arise from the exercise of the deemed coastal permit and which it is appropriate to deal with at a later stage.

ADVICE NOTES

Note 1:

- a) **[For former leases and licences].** This deemed coastal permit provides for the activities previously authorised by the **[marine farming lease or licence number]** originally granted on **[date]**. This deemed coastal permit was created on 1 January 2005 by the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (ARA) and expires on 31 December 2024 (section 10(8) ARA). The holder of a deemed coastal permit has a preferential right to apply for a new coastal permit pursuant to section 49 of the ARA Act 2004 and sections 165ZH and 124 of the Resource Management Act 1991.

[For former marine farm permits and spat catching permits]. This deemed coastal permit provides for the activities previously authorised by the **[marine farming or spat catching permit number]** originally granted on **[date]**. This deemed coastal permit was created on 1 January 2005 by the ARA Act 2004 and expires on the same date as the original permit. The holder of a deemed coastal permit has a preferential right to apply for a new coastal permit pursuant to sections 165ZH and 124 of the RMA 1991.

- b) This coastal permit is transferable to another owner, upon application to the council, on the same conditions and for the same use as originally granted and all approved variations (section 135 RMA).
- c) The coastal permit holder is responsible for all subcontracted operations related to the exercise of this consent.
- d) The reasonable costs incurred by council arising from supervision and monitoring of this coastal permit will be charged to the permit holder. This may include, but not be limited to, routine inspection by council officers or agents, liaison with the permit holder, responding to complaints or enquiries relating to the marine farm, and review and assessment of compliance with the conditions of coastal permits.

Note 2:

This coastal permit does not authorise exclusive occupation of space in the coastal marine area. Marine farming structures and operations will result in some physical exclusion over some area of the permit. To the extent that this is necessary for the normal operation of the marine farm it is provided for by this coastal permit (refer to section 122(5) of the RMA 1991).

Note 3:

The deemed coastal permit should specify the maximum number of longlines allowed within the marine farm boundary. The number of longlines allowed will be the same as that specified in the Harbours Act approval (for leases and licences) or the structures approval in the coastal permit (for marine farm permits). However, there may be circumstances where the Ministry of Fisheries has placed a restriction on the number of longlines allowed to take into account adverse effects on fisheries resources. In these circumstances, the maximum number of longlines as recommended by the Ministry of Fisheries should be used. Altering the density of longlines could result in adverse environmental effects. To go beyond the maximum number of lines authorised by the coastal permit, the permit holder should apply for a change to the conditions.

Note 4:

The permit holder is advised that they are required to comply with all relevant provisions of the Building Act 2004.

Note 5:

The permit holder is advised that they have a general duty under section 17(1) RMA to avoid, remedy or mitigate any adverse effect on the environment arising from the marine farming activity.



Note 6:

[For leases and licences only] The permit holder is advised pursuant to section 8(2) of the ARA, that any variation to the former lease or licence made under section 13 of the now repealed Marine Farming Act 1971 and in force as at 1 January 2005 is to be treated as a condition of the deemed coastal permit.

Note 7:

Under section 44 of the Biosecurity Act 1993 every person has a duty to inform Biosecurity New Zealand (a division of the Ministry of Agriculture and Forestry), as soon as practicable, of the presence of an organism not normally seen or otherwise detected in New Zealand.

Under section 46 of the Biosecurity Act 1993 every person is required, without unreasonable delay, to notify the chief technical officer of the presence or possible presence of notifiable organisms (under Ministry of Agriculture and Forestry policy all notifiable organisms are also unwanted organisms).

Note 8:

Any person who accidentally or incidentally kills or injures any marine mammal through some cause other than fishing (for example, by entanglement or stranding) must report the event to a marine mammals officer declared or appointed as such under section 11 of the Marine Mammals Protection Act 1978⁴ or a fishery officer⁵ as soon as practicable. This is a legal requirement in terms of the Marine Mammals Protection Act 1978.

Any person who accidentally or incidentally kills or injures any marine wildlife (other than a marine mammal) that is protected under the Wildlife Act 1953 (for example, sea turtles), through some cause other than fishing (for example, by entanglement or stranding) must report the event to a ranger appointed or deemed to be appointed under the Wildlife Act 1953⁶ or to a fishery officer. This is a legal requirement under the Wildlife Act 1953.

There have been some cases of marine mammal entanglements in mussel farms, and fin-fish farms. It is accepted that in carrying out legitimate marine farming activities, from time to time there will be casualties to other marine life. Immediate notification to the Department of Conservation will enable departmental staff to obtain as much information as possible in order to research methods to avoid, remedy and mitigate any future entanglements.

Other mitigation options may also be appropriate wherever there is a higher risk of entanglement, such as maintaining lines and ropes under tension, use of anti-predator nets and minimising food waste from fish farms.

Note 9:

The coastal permit holder may apply at any time for a change or cancellation of consent conditions (except for a change to the duration of the consent) under section 127 of the Resource Management Act 1991.

⁴ As defined in section 2(1) of the Fisheries Act 1996. Every person who is a member of the Police, or a ranger appointed under section 38(1) of the Wildlife Act 1953, section 8(1) of the Reserves Act 1977, or section 40(1) of the National Parks Act 1980 is deemed to be a warranted officer; but, where such a person has been appointed for part of New Zealand only, the person is deemed to have been appointed a warranted officer for that part.

⁵ As defined in section 2(1) of the Fisheries Act 1996.

⁶ Every constable, and every warranted officer appointed under section 38(1) Wildlife Act 1953 or deemed to have been appointed by section 59(9) of the Conservation Act 1987, is deemed to be a ranger to exercise duties throughout New Zealand.