

Aquaculture

Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report

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Table of contents

Table of contents	2
Purpose and format of the report	4
Report author	5
About the aquaculture provisions	5
Overview of submissions	6
Plan Change 4	6
Extent of prohibited areas and activity status	7
Submissions	7
Analysis	8
Recommendation	10
Exceptions within prohibited areas	10
Submissions	10
Analysis	11
Recommendation	15
Activity status and notification	15
Submissions	15
Analysis	16
Recommendation	19
Aquaculture policies	19
Submissions	19
Analysis	20
Recommendation	27
Other matters	27
Appendix A - Response to other matters raised in submissions	29
Appendix B – Areas where aquaculture is prohibited under rule C.1.3.14	35
Appendix C – Aquaculture rules in Auckland and Bay of Plenty plans	36

Appendix D – Aquaculture objectives and policies from the Regional Coastal Plan for Northland
Regional Council37

Purpose and format of the report

1. This report was prepared pursuant to Section 42A of the Resource Management Act 1991 (RMA). This report provides the hearing panel the rationale for the recommended changes to the aquaculture provisions in the Proposed Regional Plan for Northland (the Proposed Plan) in response to submissions. The recommended changes are set out in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
2. The recommendations made in this report are mine and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. In addition, my recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. My recommendations focus on changes to the Proposed Plan provisions. If there is no recommendation, then assume the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured with a focus on the key matters for the aquaculture provisions raised in submissions. The key matters are:
 - Extent of prohibited areas and the activity status of the prohibited rule (*C.1.3.14 Aquaculture in areas with significant values – prohibited activity*)
 - The exceptions to the prohibited activity rule
 - The activity status and notification requirements for the aquaculture rules
 - The aquaculture policies
7. Matters covered by submissions that fall outside the key matters are addressed in the “Other matters” section in less detail.
8. Further submitters are generally not referred to as they are in support or opposition of original submissions (they cannot go beyond the scope of the original submissions). The exception is where a further submission raises reasons that have not been raised in the submissions and are material to the analyses.

9. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.
10. This report should be read in conjunction with section 8.6 - *Aquaculture* in the Section 32 report.

Report author

11. My name is Benjamin (Ben) Michael Lee and I have overall responsibility for this report. I work as the Policy Development Manager for Northland Regional Council (regional council). For further details about my qualifications and experience, refer to the S42 report: *General approach*.
12. Although this is a council hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing this report and I agree to comply with it when giving oral presentations.

About the aquaculture provisions

13. The relevant provisions in the Plan for aquaculture addressed in this report are:

Definitions

- Marae-based aquaculture
- Recognised navigational routes

Rules

- C.1.3 - Aquaculture

Policies

- Policy - D.5.1 Aquaculture - benefits
- Policy - D.5.2 Aquaculture - avoiding adverse effects
- Policy - D.5.3 Aquaculture - avoiding significant adverse effects
- Policy - D.5.4 Aquaculture - general matters
- Policy - D.5.5 Aquaculture - staged development
- Policy - D.5.6 Aquaculture - abandoned or derelict farms

Maps

- Aquaculture Exclusion Areas
- Significant Ecological Areas

14. The defined term “authorised” is used throughout the aquaculture provisions, but because it is a general definition it is addressed in the S42A report: *General approach*.
15. The only other definitions used in the aquaculture provisions are “tāiapure” and “mataitai”, but there were no submissions on them.

Overview of submissions

16. A total of 36 submitters made submissions on the aquaculture provisions.
17. The submitters can be grouped as:
 - *Aquaculture interests* (Aquaculture NZ, Parua Bay Oysters, Moana NZ, NZ Oyster Industry Association, Westpac Mussels Distributors Limited, and National Institute of Water and Atmospheric Research Limited).
 - *Councils* (Auckland Council, Whangarei District Council and Far North District Council).
 - *Government agencies* (New Zealand Defence Force and Minister of Conservation)
 - *Bay of Islands interests* (Paroa Bay Station, MLP LLC, Mataka Residents Association, Robinia Investments Limited, Paroa Bay Station, Bay of Islands Maritime Park Inc, Eastern Bay of Islands Preservation Society, and Vision Kerikeri).
 - *Tangata whenua groups* (Patuharakeke Te Iwi Trust Board Inc and Te Runganga o Ngati Rehia)
 - *Other interest groups* (Royal Forest and Bird Protection Society NZ, Landowners Coalition Inc and Yachting NZ).
 - *Various* (12 submitters¹)

Plan Change 4

18. In this report, I refer to “Plan Change 4”. Plan Change 4 was a change to the Regional Coastal Plan relating to aquaculture. See section 8.6.3 (page 291) of the Section 32 for more information. There were appeals on Plan Change 4. The Environment Court issued an interim decision in 2013 (*Moturoa Island Ltd v Northland RC [2013] NZEnvC 22*), the focus of which was the extent of areas where aquaculture would generally be prohibited.

¹CEP Services Matauwhi Limited; Johnston J; Heritage NZ; Leonard B; Far North Holdings Limited; Northport Ltd; Ricketts G and F; Ruakaka Parish Resident and Ratepayers Association Inc; Scrumpious Fruit; Shanks; Tautari R and Upperton T

The final Environment Court decision was issued 29 June 2015, and it was made operative 9 May 2016.

19. As outlined in detail in the section 8.6 of the Section 32 report, Plan Change 4 was the basis for the aquaculture provisions in the Proposed Plan.

Extent of prohibited areas and activity status

20. Arguably the aspect of the aquaculture provisions that attracted the greatest attention is the extent of the prohibited areas– rule *C.1.3.14 Aquaculture in areas with significant values – prohibited activity*. There was also the related issue of the status of the rule as a prohibited activity.
21. Rule C.1.3.14, put simply says that new aquaculture is prohibited in a suite of outstanding / significant areas (e.g. areas of outstanding natural character), areas where it would conflict with the primary use of a zone (e.g. Mooring Zones), and Aquaculture Exclusion Areas (areas representing a range of significant values), with a list of exceptions for some types of aquaculture (e.g. extensions to existing farms).
22. This section focuses on the extent of the prohibited areas and the activity status. The exceptions are addressed in the section below - "*Exceptions within prohibited areas*".
23. Refer Appendix B for a map showing, at a regional scale, the extent of the areas where aquaculture is prohibited under rule C.1.3.14.

Submissions

24. Eleven submitters either supported C.1.3.14 as notified or supported the principle of the prohibited rule but with some amendments (e.g. removing some of the exceptions).
25. There was only one submission requesting the activity status be changed to non-complying (Westpac Mussels Distributors Limited)².
26. Notably other aquaculture industry submitters (Aquaculture NZ and Parua Bay Oysters) supported the prohibited activity status – on the proviso there are further supporting /

² Additionally, Te Runanga o Ngati Rehia want prohibited areas to be removed from areas where hapu and iwi wish to develop aquaculture - this is addressed in the section below - "*Exceptions within prohibited areas*".

enabling policies which encourage aquaculture outside of the prohibited areas. Moana NZ and New Zealand Oyster Industry Association made no comment about rule C.1.3.14.

27. The additional prohibited areas proposed by submitters are:
- Outstanding natural landscapes (Royal Forest and Bird Protection Society NZ and Robina Investments Limited)
 - Areas which meet the significance criteria for significant ecological areas in Policy 4.4.1, RPS (Royal Forest and Bird Protection Society NZ)
 - The balance of the Bay of Islands (Ricketts G and F)
 - Any prohibited areas that were in Plan Change 4 but are not included (Yachting NZ)

Analysis

Activity status

28. Westpac Mussels Distributors Limited advocated for non-complying (instead of prohibited) on the basis that aquaculture in areas with significant values may be appropriate in some instances. While this is mitigated to an extent by the exceptions to the prohibited rule, I agree that it will be inevitable that there may be some types of aquaculture in some of the prohibited areas that might be appropriate. However just because this might be the case, doesn't mean that it shouldn't be a prohibited activity.
29. The Environment Court in its interim decisions on Plan Change 4³ accepted that prohibition was an acceptable planning response and since then, I'm not aware of any substantive evidence to suggest this position should change. For this and the reasons outlined in the Section 32 report, I continue to recommend the activity status for rule C.1.3.14 remain as prohibited.

Additional prohibited areas

30. The Proposed Plan hasn't mapped outstanding natural landscapes in the coastal marine area and the recommendation is that they not be included (refer S42A report: *Significant natural and historic heritage*). However outstanding natural landscapes have been captured as one of the values underpinning the Aquaculture Exclusion Areas (refer to section *I Maps* in the Proposed Plan for details).

³ *Moturoa Island Ltd v Northland RC* [2013] NZEnvC 22

31. Policy 4.4.1 of the RPS sets out a suite of criteria for significant ecological areas and requires that adverse effects on the values of these areas be avoided (in the coastal marine area). The Proposed Plan includes maps of Significant Ecological Areas based on the Policy 4.4.1 (RPS) criteria. The Significant Ecological Areas are included in the list of prohibited areas in rule C.1.3.14. Therefore, I'm unclear what it is Royal Forest and Bird Protection Society NZ are requesting in relation to including areas that meet the significance criteria for significant ecological areas in Policy 4.4.1, RPS.
32. Ricketts G and F argue that the balance of the Bay of Islands should be included because (paraphrased) the Bay of Islands is an internationally recognised and precious marine area. This is not enough information for me to be able to consider whether the remaining non-prohibited areas of the Bay of Islands should be included as prohibited areas. Also, a blanket prohibition does not give effect to Policy 4.8.5 of the RPS and Policy 8 of the NZCPS which (paraphrased) requires that aquaculture be provided for in appropriate places⁴.
33. I note that the extent of the prohibited areas in the Bay of Islands received considerable attention through the Plan Change 4 Environment Court appeals process. The Court made this comment (which related to whether an area in the Bay of Islands should be included):
- The proper threshold for imposing a prohibition on aquaculture activities should be to avoid adverse effects on "outstanding" (i.e. greater than "high") natural character, landscapes, features, and intrinsic and amenity values. That approach accorded with the aquaculture-enabling policies of the NZCPS and allowed an appropriate balance to be struck between the policies of the NZCPS and s 6 of the Act.*⁵
34. I think this highlights an important point – that if submitters are promoting additional prohibited areas, they needed to be specific about the values of those areas and demonstrate why they are significant (relative to other areas), for them to be considered.
35. Yachting NZ provides no detail as to what prohibited areas from Plan Change 4 it believes are not included, and should be. The prohibited areas in the Plan are considerably more

⁴ Policy 4.8.5 of the RPS is the same as Policy 8 of the NZCPS.

⁵ From Westlaw, Resource Management – case summary, Section 77A, RMA.

extensive than those in Plan Change 4, principally because of the inclusion of the Significant Ecological Areas. From my check of the maps, the only area included in Plan Change 4 that is not in the Plan is the north-western arm of the Kaipara Harbour (leading into the Wairoa River). I'm unable to comment on the merits of (re)including this area in the absence of any specific reasons for its inclusion being provided by the submitter.

Recommendation

36. Retain (as notified) the prohibited areas as listed in *C.1.3.14 Aquaculture in areas with significant values – prohibited activity*, and mapped in the Plan maps.

Exceptions within prohibited areas

37. Within the package of aquaculture rules in C.1.3, and listed in rule *C.1.3.14 Aquaculture in areas with significant values – prohibited activity*, is a suite of exceptions for some types of aquaculture for which resource consent can be applied for (ranging from restricted discretionary to non-complying activities). This section only deals with the exceptions to the prohibited areas and not the activity status or specific wording of the rules – these are respectively addressed in the sections below - *Activity status and notification* and *Other matters*.

Submissions

38. The following is a list of the exceptions, all of which have one or more submissions requesting they be deleted:
- Reconsenting existing aquaculture (Royal Forest and Bird Protection Society NZ)
 - Realignment of existing aquaculture (Mataka Residents Association et al⁶)
 - New aquaculture in an area already authorised for aquaculture (Mataka Residents Association et al)
 - Aquaculture in a Maori oyster reserve (Johnston J)
 - Marae base aquaculture (Landowners Coalition Inc and Johnston J)
 - Extensions to existing aquaculture (Vision Kerikeri, Mataka Residents Association et al)

⁶ Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

- Small scale and short duration aquaculture (Paroa Bay Station, Mataka Residents Association et al, Yachting NZ, MLP LLC and Royal Forest and Bird Protection Society NZ)
- New aquaculture in the Kaipara Harbour Significant Ecological Areas (Royal Forest and Bird Protection Society NZ)

39. The realignment of existing aquaculture (rule C.1.3.3), small scale and short duration aquaculture (rule C.1.3.12) and extensions to existing aquaculture (rule C.1.3.9) attracted the greatest concern from submitters. This is not surprising as these are additional exceptions to what was allowed by Plan Change 4.
40. Te Runanga o Ngati Rehia wanted prohibited areas to be removed from areas where hapu and iwi wish to develop aquaculture. Their submission outlines their desire and previous attempt to apply for aquaculture in the area of Moturoa Island and the Black Rocks (Bay of Islands).
41. There were various submitters that generally supported the exceptions, including Aquaculture NZ, Parua Bay Oysters, Auckland Council and NIWA.

Analysis

42. The rationale for the exceptions is largely addressed in the Section 32 report, and I still agree with the Section 32 report and its conclusions.
43. It's also helpful to compare the rules in the Auckland Unitary Plan and Proposed Bay of Plenty Regional Coastal Environment Plan⁷ as they are relatively new (and therefore presumably consistent with current higher policy documents) and the issues are similar. Overall, they are less restrictive than the Proposed Regional Plan for Northland (refer **Appendix C** for a summary of the rules for aquaculture in high value areas in the Auckland and Bay of Plenty plans).
44. While I don't believe the Proposed Plan needs to be identical to the Auckland Unitary Plan and/or the Proposed Bay of Plenty Regional Coastal Environment Plan (there are differences between the regions) it provides a helpful benchmark.

⁷ 28 April 2017 version. All appeals on aquaculture rules have been resolved.

Realignment and extension

45. Mataka Residents Association et al⁸ suggest:

“...realignment and extensions could, over time, result in significant cumulative effects on the values of the affected areas. The provision for small scale and short duration (or “experimental”) aquaculture could similarly result in significant cumulative effects, and seems to offer little value to the industry given permanent farms could not be established in those locations.”

46. Realignment is the moving of an existing farm. The relevant rule (C.1.3.3 *Realignment – restricted discretionary activity*) has various conditions including no increase in area, two thirds of original area remaining and no application for realignment within last five years. I believe the risk of cumulative effects arising is very low given these conditions – in particular, because there will be no net increase in the size of the farm.

47. I accept there is a greater risk of cumulative effects from extensions to farms in significant areas (compared to realignments). However, I believe the risks are not great enough to warrant not allowing for resource consent applications for extensions in significant and outstanding areas as a discretionary activity because:

- The relevant rule (C.1.3.9) has conditions controlling the extent of the extension (including maximum 25% increase, new area contiguous with existing and no application for extension within last five years).
- It's a discretionary activity so council can decline applications or put in place controls (resource consent conditions) to manage any adverse effects.
- There is strong policy protecting the values of many of the significant areas (for example policies 11,13,14 and 15 of the NZCPS) that must be regarded when considering resource consent applications.
- There are likely various constraints (e.g. physical and economic) that will limit the ability of some farms to apply for resource consent for extensions.

Small scale and short duration aquaculture

48. In relation to small scale and short duration aquaculture in areas with significant and outstanding values, MLP LLC suggest:

⁸ Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

“Allowing this type of aquaculture to establish in prohibited areas undermines the protection provided by the prohibited area classification, is inconsistent with the outcome of Plan Change 4, and would adversely affect the positive economic, tourism, recreational, landscape and other values associated with the significant areas.”

49. The ability for to apply for small scale and short duration aquaculture is important for the aquaculture industry. This is highlighted in Aquaculture NZ 's submission:

“Future opportunities for growth may lie in new technologies, species and methods which are currently unanticipated...”

50. New farming technologies, species and methods may mean aquaculture can occur in significant and outstanding areas in a way that means the adverse effects can be managed to an acceptable level.
51. Also important to note is the Proposed Plan is not set in stone. Council or any other person can instigate a plan change, and council is required to review the operative plan every 10 years.
52. Allowing resource consent applications for small-scale and short-term aquaculture (and realignment and extensions) is in my opinion an appropriate trade-off for the extensive prohibited areas. The extent of the prohibited areas for the region is considerably more extensive in the Proposed Plan compared to Plan Change 4. In my opinion, the aquaculture industry submissions have been quite reasonable in not challenging the extent of the prohibited areas and the activity status (with the exception of Westpac Mussels Distributors Limited).

Exceptions for Maori interests

53. Landowners Coalition Inc and Johnston J appear to be concerned about the rules providing exceptions for Maori interests – aquaculture in the Kaipara Harbour Maori oyster reserve (rule C.1.3.8) and marae-based aquaculture (rule C.1.3.10). Johnston J in particular questions why adverse effects from aquaculture on significant values might be acceptable just because it's being undertaken by Maori.
54. Marae-based aquaculture is small, and therefore with careful design and location, the adverse effects on the significant values may, depending on the specific location and proposal, be minimised to an appropriate level. Marae-based aquaculture can also

provide significant benefits to the ability of Maori to provide for their well-being. Examples of this include kaimoana for traditional non-commercial purposes, and as a way of expressing mana (status) within the rohe moana (territorial waters) of a marae. A key difference between typical “commercial” scale aquaculture and Marae-based aquaculture is that the farmed kaimoana cannot be sold (see definition of Marae-based aquaculture in the Proposed Plan).

55. Maori oyster reserves are currently recognised by regulation⁹. Put simply, they are areas of the coastal marine area where only Maori are allowed to take oysters. Several such reserves are in Northland. Historically, the reserves were managed by committees that were representative of the local Maori community. The committee had the authority to manage the harvest, enhance the oyster fishery in the reserve, and sell surplus oysters. Aquaculture is one method Maori can use for the management and enhancement of Maori oyster reserves to provide for their social, economic and cultural wellbeing.
56. For these reasons I think it's appropriate to differentiate between aquaculture in the Kaipara Harbour Maori oyster reserve and marae-based aquaculture, and other types of aquaculture.
57. I do not agree with Te Runanga o Ngati Rehia wanting to remove prohibited areas where hapu and iwi wish to develop aquaculture. The rationale for the prohibited areas is covered in the Section 32 report. I don't believe an exception should be made to hapu and iwi for commercial aquaculture. While I appreciate there would be cultural benefits to iwi and hapu from commercial aquaculture, I don't think these would be significant enough to outweigh the potential adverse effects of aquaculture on the values underpinning prohibited areas.

Miscellaneous submissions on exceptions

58. Mataka Residents Association et al¹⁰ have requested *C.1.3.7 – New aquaculture in an authorised area – discretionary activity* be deleted. They provide no reasons so I'm unable to respond.

⁹ Fisheries (Auckland and Kermadec Amateur Fishing) Regulations 1986

¹⁰ Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

59. Royal Forest and Bird Protection Society NZ suggest that some of the exceptions do not give effect to policies 11,13,14 and 15 of the NZCPS. In the absence of the detail of why they believe the rules don't give effect, I'm not able to respond to this.

Recommendation

60. Retain (as notified) the exceptions to the prohibited areas as listed in *C.1.3.14 Aquaculture in areas with significant values – prohibited activity*, and mapped in the Proposed Plan maps.

Activity status and notification

Submissions

61. Various submissions requested changes to the activity status of the aquaculture rules and/or changes to the notification requirements.
62. Westpac Mussels Distributors Limited generally seek a less restrictive activity status (e.g. rule C.1.3.2 to be controlled rather than restricted discretionary), and, for all the rules that they have requested to be restricted discretionary or controlled activities, to be non-notified.
63. Conversely, other submitters (such as Royal Forest and Bird Protection Society and Mataka Residents Association et al¹¹) requested the activity classifications be more stringent for many of the aquaculture rules.
64. Scrumptious Fruit suggest that every aquaculture resource consent application must be publicly notified.
65. Aquaculture NZ have not requested any changes to the activity status of the aquaculture rules, except for:
- Rule *C.1.3.5 – Re-consenting finfish aquaculture – discretionary activity* (request that it be restricted discretionary)

¹¹ Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

- Rule C.1.3.11 – *Relocation of aquaculture within the Waikare Inlet and Parengarenga Harbour – non-complying* (request that it be a discretionary).

Analysis

66. A controlled activity status for aquaculture activities in significant areas is difficult to justify given the constraints of policies 11(a), 13(1)(a) or 15(a) of the NZCPS (the ‘avoid adverse effects policies’). Aquaculture is generally relatively large (compared to other coastal structures) and the likelihood of adverse effects on the values of these outstanding areas (which are to be avoided) is high enough to warrant discretion. I understand this issue was traversed during the development of the Auckland Unitary Plan and it was accepted by the parties involved that a controlled activity status wasn’t appropriate in outstanding areas.
67. Westpac Mussels Distributors Limited argue, in support of their request for downgrading the activity statuses for the realignment and extension rules:
- “*There is minimal change in the nature and scale of any effects...*”, and
 - “*Any differences in potential effects (which are unlikely) ... can be addressed through consent conditions.*”
68. I don’t agree. I believe the potential for a change in the nature and scale of effects is greater than “minimal”. For example, a marine farm may be located close to an important anchorage or navigation route and even a small shift may have significant effects on the use of the anchorage or navigation route.
69. Aquaculture NZ suggest that re consenting for finfish aquaculture should be restricted discretionary (not discretionary). There is a greater risk of adverse effects from finfish compared to shellfish aquaculture. In their submission Aquaculture NZ doesn’t address the issue of the difference in adverse effects of finfish compared to shellfish. Also, I don’t think that limiting decision-makers discretion is appropriate for finfish aquaculture where there are potentially new and emerging technologies and hence unforeseen potential effects. Consequently, I recommend the discretionary status be retained.

70. The Proposed Plan is relatively enabling for re-consenting shellfish and seaweed aquaculture¹². Rules C.1.3.1 and C.1.3.2 (the re-consenting aquaculture (not finfish) rules) preclude notification. All the other aquaculture rules are silent on notification and rely on the case-by-case determination as prescribed in the RMA.
71. Providing as much certainty (as possible) is a key, if not the biggest RMA planning issue, for the aquaculture industry¹³. The activity status and notification (and even the potential for notification) can add considerable cost and uncertainty to a resource consent application. A controlled activity for re-consenting outside significant and outstanding areas (rule C.1.3.1), restricted discretionary in significant and outstanding areas (C.1.3.2) and precluding notification in both rules, is an appropriate planning response to balancing the NZCPS and RPS aquaculture-enabling policies with the minimising adverse effects policies.
72. Rule C.1.3.11 provides for the relocation aquaculture within the Waikare Inlet and Parengarenga Harbour as a non-complying activity. It would otherwise be prohibited as they would be caught by rule C.1.3.14. Waikare Inlet is a prohibited area because it is an Aquaculture Exclusion Area, and in particular, it is an area where there is no or limited space and/or the inlet is its production or ecological capacity i.e. it's full (refer description for Aquaculture Exclusion Areas in *Maps of the Plan*)¹⁴. The identification of Waikare Inlet as being 'full' came about as a result of the mediation of Environment Court appeals on Plan Change 4. Admittedly the evidence for it being full at the time was less than comprehensive. Should evidence be provided which reasonably shows that Waikare Inlet has the production and or ecological capacity then I would likely reconsider either Waikare Inlet being a prohibited area or to change the activity status of rule C.1.3.11 for the Waikare Inlet from non-complying to discretionary.
73. Parengarenga Harbour is a prohibited area because it is a Significant Ecological Area. Again rule C.1.3.11 as it applies to Parengarenga Harbour has its roots in Plan Change 4. In Plan Change 4 the rule was worded slightly differently and it allowed (as a non-complying activity) the moving of marine farms from the southern part of the harbour to the northern part. This was based on the information at the time that indicated the

¹² There is currently no seaweed aquaculture in Northland.

¹³ See Aquaculture NZ's submission for a discussion on this.

¹⁴ To be clear, Waikino Inlet (which could be interpreted as being part of the Waikare Inlet) is a prohibited area because it is an Significant Ecological Area.

southern part of the harbour had higher ecological values than the northern part. The rule was seen as a 'win-win' to allow (supposedly) sub-optimal space in the southern part of the harbour to be relocated to better growing areas and areas of lesser ecological value. However, the Significant Ecological Area mapping now indicates no difference between the two halves of the harbour – it's all significant.

74. The rationale for continuing to allow (as a non-complying activity) the relocation of aquaculture in Parengarenga is twofold. The first reason is that even though there are many farms in the harbour it was still identified as one of New Zealand's most valuable estuaries¹⁵. In biodiversity diversity terms, it is amongst the most valuable estuaries in New Zealand and is significant internationally as a fine example of a subtropical estuarine environment¹⁶. In other words, the marine farms have been able to exist and operate in the harbour without compromising the ecological significance of the area. The second reason is that there are very few economic opportunities for communities in the far north. Marine farming is one of the few viable commercial activities in the area. New aquaculture is prohibited. Therefore, the only option is to optimise the existing space. Balancing these two reasons against the policy direction of avoiding adverse effect on the values of Significant Ecological areas I believe that allowing for it as a non-complying activity is appropriate. A non-complying activity status still gives effect to the "avoid effects" policies¹⁷ - the Auckland Unitary Plan classifies new aquaculture in "outstanding" areas as non-complying (refer Appendix C).
75. Aquaculture NZ suggest that relocation in Parengarenga Harbour should be a discretionary activity. I've outlined in the previous paragraphs the reasons why I believe it should be a non-complying activity.

¹⁵ Significant Ecological Marine Area Assessment Sheet, Parengarenga Harbour
<https://www.nrc.govt.nz/contentassets/95eceed9408f4873b35b5e3f781dac6d/parengarenga-harbour---significant-ecological-marine-area-assessment-sheet.pdf>

¹⁶ Significant Ecological Marine Area Assessment Sheet, Parengarenga Harbour
<https://www.nrc.govt.nz/contentassets/95eceed9408f4873b35b5e3f781dac6d/parengarenga-harbour---significant-ecological-marine-area-assessment-sheet.pdf>

¹⁷ For example, NZCPS policies 11, 13 and 15.

Recommendation

76. My recommendation is that there be no change to the activity status of rules C.1.3.1 to C.1.3.13.

Aquaculture policies

77. This section deals with the submissions on the aquaculture policies (D.5.1 – D.5.6) and requested new aquaculture policies

Submissions

78. The submitters were generally the same parties who submitted on the rules.
79. Aquaculture NZ and Parua Bay Oysters requested the inclusion of new policies to address perceived gaps in the policies of the Plan – including how the following will be provided for:
- consenting aquaculture inside significant areas
 - realignment and minor extensions
 - management of biodiversity risks
 - aquaculture research trials
 - avoidance of reverse sensitivity effects.
80. Yachting NZ requested the inclusion of new policies equivalent to those in the operative Regional Coastal Plan for Northland (introduced by Plan Change 4¹⁸) and a policy to recognise the adverse effects of aquaculture.
81. Leonard B suggested a number of amendments to the aquaculture policies but with no or minimal reasons and so I cannot assess the merits of the requests.
82. Far North Holdings Limited and Bay of Islands Planning Limited suggested the Proposed Plan be more proactive in achieving integrated management of cross boundary issues and reference policies D.5.2 and D.5.4 in this regard. However, they don't offer any detail,

¹⁸ Plan Change 4 was a change to the Regional Coastal Plan relating to aquaculture. See section 8.6.3 of the Section 32 for more information. The Environment Court case is *Moturoa Island Ltd v Northland RC* [2013] NZEnvC 227

nor is it immediately apparent, how this might be achieved – therefore I’m unable to assess this request.

83. Various requests were made to amend the aquaculture policies and each policy had two or more submitters in support of it.

Analysis

General approach to aquaculture policies

84. The aquaculture policies are based on those from Plan Change 4. A copy of these policies is included in Appendix D.
85. The main differences between the Proposed Plan policies and the Plan Change 4 policies are:
- The Proposed Plan consolidates some of the policies from Plan Change 4 (e.g. D.5.1 is a consolidation of policies 27.4.1, 2 and 2a from Plan Change 4)
 - The Proposed Plan doesn't include policies (or parts of policies) that are addressed by other policies in the Plan or a higher order planning document. So, for example in the Plan, policy *D.5.2 Aquaculture – Avoid adverse effects* doesn't list outstanding natural character, outstanding natural landscapes and significant biodiversity in the list of matters upon which aquaculture must avoid adverse effects – the rationale being that it is already required by the RPS (e.g. policy 4.6.1). Conversely, the equivalent policy in Plan Change 4 includes these matters.
 - Policies from Plan Change 4 which no longer give effect to higher order policy documents were not included (e.g. policy 27.4.3 which is not consistent with the NZCPS 'avoid' policies).

New policies

86. Aquaculture NZ and Parua Bay Oyster farm's request for new policies as described above and refers to section F2.15¹⁹ of the Auckland Unitary Plan as an example of the wording for the new policies. I have read these policies, and in my opinion the policies repeat what is already addressed by other policies (including other aquaculture policies) in the Proposed Plan or are not of any real value to the resource consent process.

¹⁹ The submission said F2.5 but I assume it was meant to be F2.15.

87. Yachting NZ's proposed new policy to recognise a list of adverse effects from aquaculture is in my opinion unnecessary. The submission doesn't include any reasons for the proposed policy. I assume it's being proposed as a counter to policy *D.5.1 Aquaculture – benefits*.
88. I don't believe Yachting NZ's proposed policy assists decision makers – it is just a list of adverse effects. If the purpose is to highlight the adverse effects of aquaculture, then this can be achieved outside the Proposed Plan (e.g. through guidance material). In contrast, policy D.5.1 is the only aquaculture policy focussing on positive effects – all the other aquaculture related provisions in the Proposed Plan focus on managing the adverse effects of aquaculture. Also policy D.5.1 is focussed only on the significant benefits i.e. it is not a list of all benefits.

Policy D.5.1 Aquaculture – benefits

89. Aquaculture NZ and Parua Bay Oysters propose four additional significant benefits be added to the list to be 'recognised'. They are of the view the policy should recognise all benefits (not just significant benefits) as a balance to the extensive prohibited areas. I disagree. If the policy was amended to include all benefits, then I don't see what value it would provide the resource consent process. As mentioned in the previous paragraph, if it is just to highlight a list of benefits, then this could be achieved outside the Plan.
90. Mataka Residents Association et al suggest making Policy D.5.2 take precedence over D.5.1, but offer no reasons why. Under RMA s104 decision-makers have to have regard to all policies and evaluate any competing guidance relative to the context of a particular consent application.

Policy D.5.2 – Aquaculture avoid adverse effects

91. The Minister of Conservation and Bay of Islands Maritime Park Inc suggested that the matters referred to in NZCPS policies 11, 13 and 15 (significant biodiversity, outstanding natural character and outstanding natural features and landscapes) should be added to Policy D.5.2. While I don't dispute that these areas, and the need to avoid adverse effects on them, is applicable to aquaculture, I don't believe they should be added to the policy for two reasons.

92. Firstly, the addition of these NZCPS matters to policy D.5.2 would not be consistent with the NZCPS policies 11, 13 and 15. Policy D.5.2 says “Aquaculture activities must avoid adverse effects (after taking into account any remediation or mitigation) on: ...”. The NZCPS policies do not allow remediation or mitigation to be taken into account when determining whether adverse effects have been avoided – avoid means avoid.
93. Secondly, staff have recommended the inclusion of a new policy to address the NZCPS policies 11, 13 and 15 matters - refer S42A report: Significant Natural and Historic Heritage. With the inclusion of this policy there is no need to repeat the ‘avoid adverse effects’ requirement specifically for aquaculture.
94. The New Zealand Defence Force suggested deleting “...*after taking into account any remediation or mitigation...*” and the reason given is that the words do not provide clarity. Ironically, I’m not clear what they mean by this. The words are included so that the ‘bar’ is not that effects must be avoided full stop – the bar is net adverse effects must be avoided. So for example, a marine farm proposal may restrict the ability to use an existing jetty because it will be located in a navigation route to and from the jetty, but as part of the proposal the applicant offers to dredge near the jetty so larger vessels can use it and provide more car parking adjacent to the jetty. In this example, there is an adverse effect on the jetty but the net effect is that there is no adverse effect (and possibly a net positive effect).
95. Westpac Mussels Distributors Limited suggests amending the wording of Policy D.5.2 to recognise that significant effects on the matters listed may be appropriate, but didn’t provide any detail on what these situations might be or why setting a bar of avoiding net adverse effects for the listed matters is inappropriate.
96. Yachting NZ request replacing clause 5) with “*Recognised Anchorages and Recognised Recreational Anchorages*”. The submitter also proposes new definitions for these two types of anchorages. It’s not clear what the effect of these changes would be, but presumably it would add more anchorages i.e. in addition to the existing clause 5) “*anchorages referred to in cruising guides, pilot books and similar publications as being suitable for shelter in adverse weather*”.
97. My view is that the principle that Environment Court applied, in considering the addition of high natural character areas as an area where aquaculture is prohibited, applies to the request for additional anchorages (refer section above *Extent of prohibited areas and*

activity status). The Courts view was that the addition of high natural character is essentially a step too far – that it wasn't an appropriate balance between the aquaculture-enabling policies of the NZCPS and the protective policies of the NZCPS and s 6 of the Act.

98. Applying this principle from the Environment Court to the request for additional anchorages, it is my view that the 'bar' for anchorages to be included is that they need to be of at least some significance, particularly when coupled with the fact that anchorages do not have any explicit recognition in the higher order policy instruments (unlike natural character).
99. Patuharakeke Te Iwi Turst Board Inc and Tautari R propose the addition of several cultural matters to D.5.2. No reasons are given for their inclusion, so I recommend the proposed additions are not included.
100. Northport Ltd's suggested addition to clause 6) of "...including commercial shipping channels" is not necessary as it is already covered in clause 4) recognised navigational routes which as per the definition in Section B of the Plan includes commercial vessel routes.
101. I agree with Mataka Residents Association et al²⁰ on including Mooring Zones in D.5.2 as it is not covered by another policy and it is consistent with the rules which prohibits most new aquaculture in Mooring Zones.

Policy D.5.3 Aquaculture – avoid significant effects

102. Several submissions on Policy D.5.3 sought additions to the list of matters on which significant adverse effects from aquaculture should be avoided. Whangarei District Council proposed the addition of high natural character. Staff have now recommended including a policy that covers avoiding significant adverse effects on natural character' policy (refer S42A report: *Significant Natural and Historic Heritage*) and there is no need to repeat this specifically for aquaculture,
103. Westpac Mussels Distributors Limited suggests amending the wording to recognise that significant effects on the matters listed may be appropriate, but didn't provide any detail

²⁰ Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

on what these situations might be or why setting a bar of significant adverse effects for the listed matters is inappropriate.

Policy D.5.4 – General matters

104. Aquaculture NZ, Parua Bay Oysters, Moana NZ and NZ Oyster Industry proposed specific changes to the wording of policy D.5.4.
105. Aquaculture NZ and Parua Bay Oysters suggest that clauses 1) and 2) be deleted on the basis that at the time of a resource consent application for aquaculture, the detail of the land-based infrastructure, facilities and operations may not be confirmed because (for example):
- Any resource consent for land based infrastructure, facilities and operations may not be applied for until there is certainty of the aquaculture progressing
 - The development of the land-based infrastructure may be driven by a separate entity.
106. Aquaculture NZ and Parua Bay Oysters arguments are based on evidence produced for the Bay of Plenty Proposed Regional Plan on behalf of Aquaculture NZ (and others). The context of the evidence was a policy in the Bay of Plenty plan that said:
Resource consent for aquaculture developments shall not be granted unless adequate provision has been made for site access and the supply of the necessary land and water-based infrastructure to service the development.
(Underlining added for emphasis)
107. There is a key difference between the Bay of Plenty policy and Policy D.5.4. Policy D.5.4 does not say resource consent will be declined – it says that aquaculture should have suitable access, land-based infrastructure etc. If this detail is not confirmed at the time of a resource consent being considered, it doesn't mean that the application will be declined. It may mean however that there are consent conditions that put some requirements in places for the nature of the land-based access, infrastructure and associated activities to address land-based adverse effects.

108. Aquaculture NZ, Moana NZ and NZ Oyster Industry Association suggested clause 3) of D.5.4 be deleted. Moana NZ and NZ Oyster Industry Association suggested that relaying²¹ is a viable option. My reading of the wording of clause 3) is that it anticipates relaying, however I think this could be made clearer and I have recommended accordingly. Aquaculture NZ suggested that there may be aquaculture for products not intended for human consumption. I agree – but clause 3) only applies to shellfish aquaculture for human consumption. Aquaculture NZ also suggested another valid situation is where an aquaculture proposal is made in conjunction with an initiative to enhance water quality to the extent it is safe to harvest for human consumption. My view is that a) this would very much an exception and I'm not aware of any examples of this occurring and b) the policy provides some flexibility for exceptions (use of "should").
109. Aquaculture NZ proposed the addition of a clause to D.5.4 (relating to encouraging aquaculture outside significant and outstanding areas) but didn't provide any reasons for its inclusion. Absent any reason(s) for its inclusion my view is that it not be added

Policy D.5.5 Aquaculture – staged development

110. Aquaculture NZ, Parua Bay Oysters and Westpac Mussels Distributors Limited suggested specific wording changes to Policy D.5.5. While I don't agree entirely with the proposed changes, I agree the wording of the policy can be improved.
111. I agree with the principle suggested by Aquaculture NZ and Parua Bay Oysters that the trigger for considering staged development should be the effects being potentially significant. It would be overly cautious, for example, to require staged development where the effects can't be adequately predicted but at most are likely to be minor.
112. The way the policy is currently written suggests three triggers – 1) predictability of effects (which may be significant), 2) new species or technologies, or 3) scale or type of the farm. I am of the view that the first trigger should be the only trigger, as the other two are just examples of the where the first arising is more likely. I have recommended changes to D.5.1 to remove reference to triggers 2) and 3), and I am satisfied that these changes are within the scope of the combination of Aquaculture NZ, Parua Bay Oysters and Westpac Mussels Distributors Limited's submissions.

²¹ Relaying is the transfer of stock into waters that are deemed safe and leaving them in the water until they are safe to harvest

Policy D.5.6 Aquaculture – abandoned or derelict farms

113. The NZ Oyster Industry Association and Moana NZ submissions were critical of this policy, suggesting that the oyster industry should not be universally singled out and saddled with bonds.

114. Method 4.8.6 (3) of the RPS states:

The relevant regional plan will require bonds or alternative security for coastal structures where there is an unacceptable risk structures will be abandoned. The bond or alternative security will cover the costs of removing the structure(s) and any other material (for example, oyster shell) associated with the structure(s).

115. Oyster farming (in particular) has a long history with bonds. The Council went through a process with oyster farm consent holders to ‘update’ their resource consent conditions as a result of the Council inheriting the responsibility for the marine farms from the Ministry of Fisheries. The most controversial aspect of the process was the inclusion of a condition requiring a bond or alternative surety, and in particular the value of the bond or alternative surety. In the end, the matter was settled and the imposition of a bond or alternative surety was accepted.

116. I’m of the view that the policy should be retained. While I’m not aware of any formal assessment of the risk of abandonment from marine farms vs other structures, the process outlined in the previous paragraph recognised that there is a risk, and it was significant enough to warrant the requirement for a bond or alternative surety.

117. Aquaculture NZ and Parua Bay Oysters suggest the following change:

...

2) A bond or alternative surety ~~to cover the actual and~~ that reflects the reasonable risks and costs of removing...

118. I agree with some aspects of the proposed change for the alternative surety, but not for bonds. Alternative sureties are generally shared risk schemes – a bit like insurance – which consent holders pay into. What the size of the ‘pool’ of money is and how quickly it accumulates is based on an assessment of risk. A bond is a ‘contract’ between the consent holder and the council that the council will have access to money to remediate the site to predetermined level – there is no assessment of risk.

119. I don't think risk of abandonment or structures falling into disrepair is the right test for the alternative surety – I think it is likelihood. The basic risk formula is likelihood x consequence. The consequence is that the farm abandonment or structures falling into disrepair, which the policy already recognises. Therefore, it is only the likelihood of abandonment or structures falling into disrepair that requires assessment.
120. Bay of Islands Maritime Park Inc propose policy D.5.6 be moved to the rule section. The submitter didn't provide any wording changes to show how this would be achieved and it's not readily apparent, so I'm unable to assess the request.
121. Westpac Mussels Distributors suggest that policy D.5.6 be softened by changing "must" to "may" and adding "where appropriate", and argue that allowing council discretion would allow "best resource management practice". I'm not clear what "best resource management practice" is in relation to bonds and alternative sureties and therefore I'm unable to assess the request.

Recommendation

122. I recommend the following changes:
- Policy D.5.2 - addition of "Mooring Zones" to list of matters that aquaculture must avoid adverse effects on.
 - Policy D.5.4 – amend to clarify that the policy allows for relaying.
 - Policy D.5.5 – amend to confirm that the trigger for staged development is uncertainty of potentially significant effects.
 - Policy D.5.6 – amend so that the alternative surety reflects:
 - the likelihood of structures being abandoned or falling into a state of disrepair, and
 - the costs of removing abandoned structures or structures that have fallen into a state of disrepair, and reinstating the environment in the area where the structures have been removed.
123. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 8.6 of the Section 32 report and therefore do not require further evaluation.

Other matters

124. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the aquaculture provisions not addressed in the key matters sections of this report.

Appendix A - Response to other matters raised in submissions

Note – this table does not include the summary of submission points, analysis and recommendations made on the aquaculture provisions addressed in the key matters sections of the report.

Provision or matter	Summary of main submission points	Discussion	Recommendation
All aquaculture provisions	<p>Aquaculture NZ provided an overview of the issues for aquaculture in Northland:</p> <ul style="list-style-type: none"> • Recognise that existing aquaculture is an appropriate activity in the CMA • Clearly define the values that the Plan is seeking to protect • Provide opportunities for growth and innovation <p>Protect existing marine farms from adverse effects</p>	<p>My view is that with the recommended changes, the Proposed Plan will for the most part address the issues raised by Aquaculture NZ. However, it has come to my attention as I've been working through the submissions and preparing my recommended changes that there is a gap in the rules for discharge of contaminants associated with the washing, harvesting and sorting of oysters. There are two situations where these activities occur – in the farmed area (e.g. washing off sediment accumulated on oysters and harvesting), and then activities remote from the farm (generally sorting and associated cleaning). The latter takes place on a barge or on land.</p> <p>Without any changes to the Proposed Plan, resource consent would likely be required for the washing, harvesting and sorting of oysters in all circumstances because it would unlikely comply with rule C.6.9.5 <i>Discharges to land or water not provided for by other rules – permitted activity</i>. In the operative Regional Coastal Plan the activity is permitted with the farmed area and discretionary outside. I'm proposing that this be rolled over into the Proposed Plan on the basis that I'm not aware of any concerns with the current approach.</p>	<p>Add new rules to section C.6.9 to permit the washing, harvesting and sorting of oysters within the approved farm area, and for the same activity outside the farmed area to be a discretionary activity.</p>

Provision or matter	Summary of main submission points	Discussion	Recommendation
Alignment of provisions with Plan Change 4	Number of submitters, including Mataka Residents Association et al ²² and Yachting NZ, requested that the provisions align with Plan Change 4.	The rationale for why the Proposed Plan provisions are not completely aligned with Plan Change 4 is covered in the Section 32 report (8.6 Aquaculture).	Don't change the Proposed Plan to match Plan Change 4.
RMA activities covered by aquaculture rules	NZ Oyster Industry Association and Moana NZ suggested amendments to many of the aquaculture rules to add additional references (s12(1)(b), s12(1)d and s14(3)).	<p>I agree with the addition of s12(1)(b), but only where it is missing from a rule for an activity that involves building new aquaculture structures. For rules that apply to <u>existing</u> structures (e.g. C.1.3.1) it is not necessary as the structures have already been built.</p> <p>All the aquaculture rules already refer to 12(1)(d).</p> <p>The reference to s14(3) is not necessary as the take of coastal water is permitted under the RMA and staff are recommending addition of a new rule for water takes – refer S42A report: <i>Freshwater quantity management</i></p>	Add reference to s12(1)(b) to the rules for new aquaculture (where it is missing).
Notification of applications for aquaculture	Scrumptious Fruit requests that all resource consent applications for aquaculture are publicly notified.	The submitter provides no reasons.	No change.
Effects on Historic Heritage and Sites and areas of Significance to Tangata Whenua	Heritage NZ, Tautari R and the Patuharakeke Te Iwi Turst Board request various amendments to the aquaculture rules to address effects on Historic heritage and Sites and areas of Significance to Tangata Whenua	I disagree with the addition of Historic Heritage Areas to the areas where rules <i>C.1.3.1 Re-consenting aquaculture (not finfish) controlled activity</i> and <i>C.1.3.2 Reconsenting aquaculture (not finfish) in a significant or outstanding area – restricted discretionary</i> do not apply. Heritage NZ argue that it should be included because historic heritage areas are at risk of effects similar to Sites	Add “effects on historic heritage” as matters on control or discretion (as relevant) to rules C.1.3.1 to C.1.3.4.

²² Mataka Residents Association, Paroa Bay Station and Robinia Investments Limited

Provision or matter	Summary of main submission points	Discussion	Recommendation
		<p>and Areas of Significance to Tangata Whenua which are included in the rules.</p> <p>Sites and Areas of Significance to Tangata Whenua are included because Policy D.1.4 requires effects on Sites and Areas of Significance to Tangata Whenua to be no more than minor. The level of protection for historic heritage is not nearly as high. Policy 4.6.2 of the RPS requires significant adverse effects be avoided. If the rules included Historic Heritage Areas then this would then open it up to other areas or features that have a similarly lower level of policy protection.</p> <p>However, I do accept that there is a potential for effects on historic heritage (such as shipwrecks as suggested by Heritage NZ) and the policy recognition as per Policy 4.6.2 of the RPS warrant the inclusion of effects on historic heritage as matters of control or discretion as relevant.</p> <p>Rules C.1.3.1, C.1.3.2 and C.1.3.4 do not apply in Sites and Areas of Significance to Tangata Whenua therefore I'm not clear why the submitters request the addition of the same to the matters of control or discretion. And rule C.1.3.3, which does allow for applications in Sites and Areas of Significance to Tangata Whenua, already includes effects on the same as a matter of discretion.</p>	
Changes to the matters of control and discretion in rules C.1.3.1 to C.1.3.4	Various submitters requested various amendments to the matters of control and discretion. In particular:	I agree with some of the changes suggested by Aquaculture NZ where they are a better description of the adverse effects of concern or they are an improvement on the wording.	Amend matters of control and discretion in rules C.1.3.1 to C.1.3.4 as outlined in <i>Proposed Regional Plan for Northland</i>

Provision or matter	Summary of main submission points	Discussion	Recommendation
	<p>Aquaculture NZ have proposed a suite of amendments, generally to make consistent with the rules in the <i>Proposed National Environmental Standard for Marine Aquaculture</i>.</p> <p>Westpac Mussels Distributors Limited suggest additional matters of control and discretion:</p> <p>(a) <i>Whether the activity is located in a significant or outstanding area;</i></p> <p>(b) <i>Any existing investment in marine farming structures and equipment; and</i></p> <p>(c) <i>The positive effects of aquaculture including social and economic benefits.</i></p> <p>Far North District Council suggested the addition of the following as a matter of control and discretion: <i>The need for the integrated management of any associated land use effects outside the CMA.</i></p>	<p>I agree with Upperton T's suggestion about adding effects on vessel anchorage to C.1.3.3 (realignment), but I suggest it be limited to mapped Regionally Significant Anchorages.</p> <p>I agree with Westpac Mussels Distributors Limited that the restricted discretionary activity (RDA) should include positive effects as a matter of discretion. Without a reference to positive effects then these cannot be considered. This is an issue with all the RDA rules in the Proposed Plan and a blanket change has been recommended for all RDAs. I also agree with the addition of reference to the existing investment as a matter of discretion. However, I'm not clear what the benefit of adding positive effects and existing investment as a matter of control in C.1.3.1. There's no need to reference positive effects as the consent must be granted and the matters of control are those matters consent conditions can be put in place for – I can't see why you might want to have a consent condition for a positive effect. Lastly, I'm not clear why it's necessary to have "<i>Whether the activity is located in a significant or outstanding area</i>" as a matter of control or discretion. Effects on significant and outstanding areas is already a matter of control or discretion where the activity may take place in such areas.</p> <p>I agree with the premise of Far North District Council's submission that the wider land-use effects of aquaculture should be a relevant matter of control and discretion. However, I think that the wording should be specific to the use of public facilities and infrastructure (which are generally owned and/or</p>	<p>– S42A recommended changes.</p>

Provision or matter	Summary of main submission points	Discussion	Recommendation
		<p>managed by district councils) and that it be facilities on land and in the costal marine area (e.g. a wharf or boat ramp).</p> <p>The other suggested amendments have lacked reasons and/or are already covered by the matters of control or discretion.</p>	
C.1.3.1 - allowance for mooring	Moana NZ and NZ Oyster Industry Association would like a vessel mooring within the marine farm to be included in the 'bundle' of consents under C.1.3.1.	The reason for the request appears to be because they believe that it is currently the case in the Regional Coastal Plan that a mooring within a marine farm is a controlled activity. That is not the case. Section 31.5.8 of the Regional Coastal plan sets out the rules for moorings within a marine farming zone. A new mooring required for aquaculture operations is a restricted discretionary activity (rule 31.5.8(c)).	No change.
Other amendments to C.1.3	Various submitters have made suggested a range of amendments to the rules in addition to those canvassed in this report	Aside from the amendments I've recommended in response to the other submission points canvassed in this report, I am not convinced by the reasons provided by submitters (which often are minimal) that any further amendments are required to the rules.	No change.
New policy – consent duration for aquaculture activities	Aquaculture NZ sought the addition of a new policy giving direction to grant maximum consent duration to aquaculture activities (refer page 443 of the Summary of Decisions Requested, March 2017).	Aquaculture NZ argue that: <i>The aquaculture industry requires long-term certainty in order to invest and innovate to maximise the economic, social and cultural benefits to the region regardless of the quantity of the investment on a farm by farm basis.</i> ²³	No change.

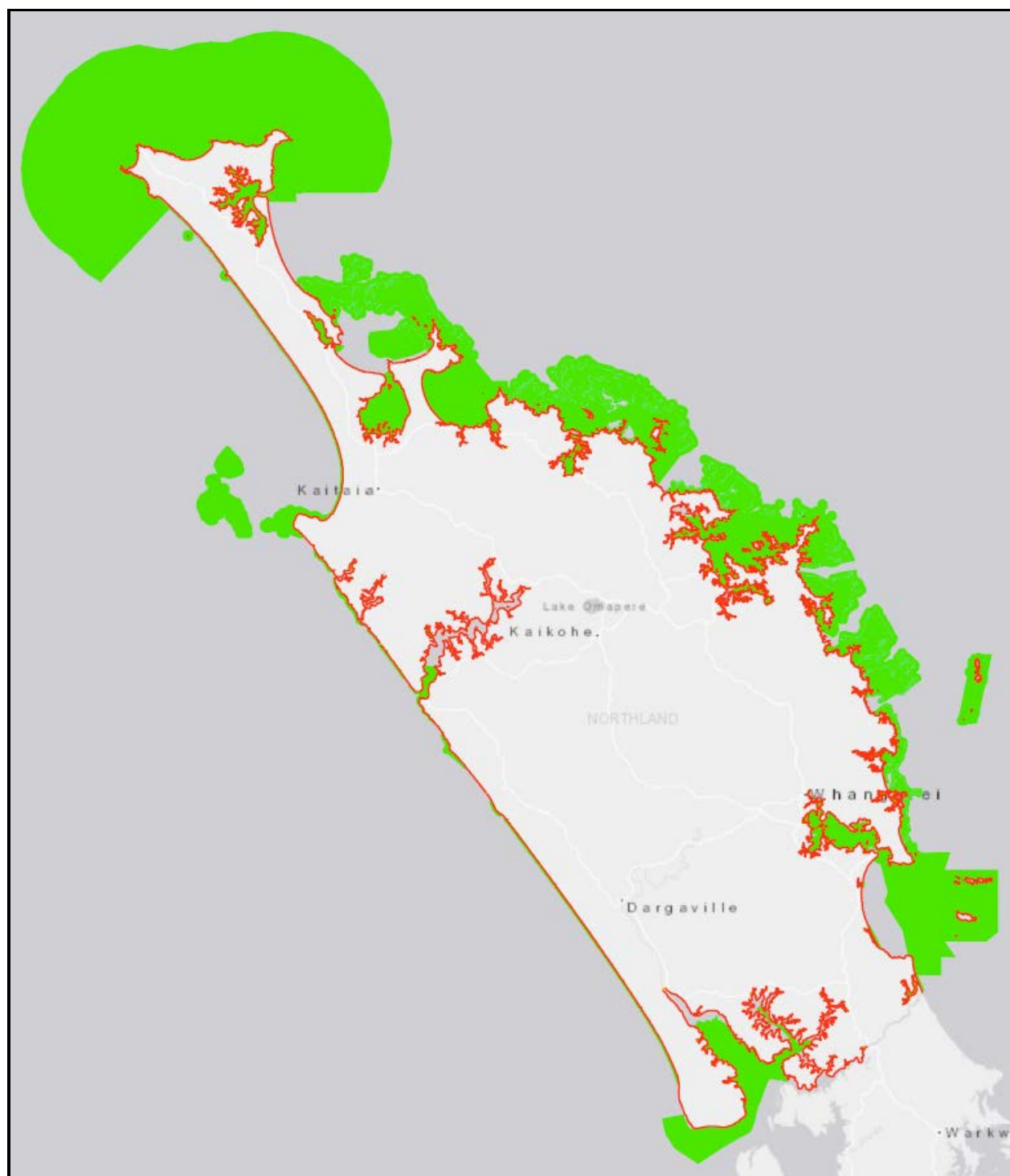
²³ Page 15, Aquaculture NZ submission.

Provision or matter	Summary of main submission points	Discussion	Recommendation
		<p>In my view, these comments could equally apply to other commercial activities. The Plan already contains a policy for resource consent duration (D.2.4) which (with the recommended changes included) generally addresses the matters identified in Aquaculture NZ's proposed policy.</p> <p>Also, there is no statutory or case law support for Aquaculture NZ's policy. The RMA sets out a minimum consent duration for aquaculture²⁴ - but this is not relevant to determining a maximum. In <i>Curador Trust v Northland Regional Council (2006) (EC)</i>, the court concluded that:</p> <p><i>"... the Act is clear that the presumptive period is five years and the maximum period for which consent can be granted is 35 years. We are unable to see any basis upon which this creates an assumption that consent should be granted for 35 years unless there is good reason to depart from that."</i></p>	

²⁴ S123A

Appendix B – Areas where aquaculture is prohibited under rule C.1.3.14

This map shows the combination of all the areas where aquaculture is prohibited under rule C.1.3.14.



Appendix C – Aquaculture rules in Auckland and Bay of Plenty plans

Comparison of the rules for aquaculture in high value areas - Auckland Unitary Plan and Proposed Bay of Plenty Regional Coastal Environment Plan²⁵

	Auckland Unitary Plan	Proposed Bay of Plenty Regional Coastal Environment Plan
<i>What's included in high value areas</i>	<ul style="list-style-type: none"> • Significant ecological areas • Outstanding Natural Landscapes • Outstanding Natural Features 	<ul style="list-style-type: none"> • Indigenous Biological Diversity Area • Areas of Outstanding Natural Character • Within 5.5 kms (three nautical miles) of commercial shipping lanes or navigable river mouths • Mooring areas • Port and Harbour Development Zones.
<i>New aquaculture</i>	Non-complying	Prohibited
<i>Realignment</i>	Restricted discretionary – 1/3 of farm moved, 2/3 stays in same place.	Restricted discretionary – up to 10% shift (in Indigenous Biological Diversity Area and Outstanding Natural Character areas only)
<i>Extensions</i>	Discretionary – up to 25%	Restricted discretionary – up to 10% extension (in Indigenous Biological Diversity Area and Outstanding Natural Character areas only)
<i>Small scale and short-term aquaculture</i>	Discretionary - <1ha	Prohibited
<i>NOTES</i>	All aquaculture prohibited in development zones e.g. moorings and port zones	Extensions and realignments appear to only be allowed upon consent renewal for the entire farm.

²⁵ 28 April 2017 version. All appeals on aquaculture rules have been resolved.

Appendix D – Aquaculture objectives and policies from the Regional Coastal Plan for Northland Regional Council

27. Marine 2 (Conservation) Management Area

2. Aquaculture can provide significant opportunities for Maori to enhance their social, economic and cultural wellbeing.
3. In some locations, aquaculture will be one of many competing activities for use of Northland's coastal marine area.
4. Aquaculture activities can have adverse effects, including cumulative effects, on other processes, values and uses of the coastal environment.
5. Insufficient knowledge of coastal processes may prevent the adverse effects from aquaculture developments being adequately determined, particularly where new species and technology are proposed.
6. Aquaculture operators require security of tenure to justify the significant levels of investment required to establish marine farms.
7. The adverse effects of land and water based discharges may affect the viability of aquaculture activities.
8. Aquaculture activities may require shore-based facilities which have implications for adjacent land uses and raise cross-boundary issues.
9. Poorly maintained, abandoned and/or derelict marine farms may pose a hazard to navigation and adversely affect natural character and amenity values.
10. The specific biophysical requirements of some types of aquaculture activities may restrict the establishment of aquaculture activities to parts of the coastal marine area where such requirements can be met.
11. Depleted kaimoana stocks have affected natural traditional Maori food sources and have adversely impacted Maori wellbeing.

27.3 OBJECTIVES

1. The development of sustainable aquaculture activities in Northland is enabled.
(Issues 1, 2, 4, 6, 7, 8, and 10))
2. Sustainably managed aquaculture provides socio-economic and cultural benefits for the Northland Region and its communities.
(Issues 1 and 2)
- 2a. To enable opportunities for Maori involvement in sustainable aquaculture.
(Issues 2 and 12)
3. The ongoing practice of recreational fishing and the provision of customary kaimoana harvest are not unduly compromised by aquaculture development.
(Issues 2 and 4)
4. Aquaculture activities are located in appropriate areas.
(Issues 3, 4 and 5)

- 4a Avoid aquaculture activities in areas of identified significant values where they are incompatible.
(Issues 3 and 4)
5. A clear and open process for the establishment of aquaculture activities is provided, to enable the full participation of the aquaculture industry, the community, Maori, relevant local authorities and other stakeholders.
(Issues 8, 9 and 10)
6. Activities that create adverse effects on existing aquaculture activities are managed appropriately.
(Issues 3 and 7)
7. Aquaculture activities that require shore-based facilities are located in areas where adequate and appropriate facilities can be provided.
(Issue 8)
8. Marine farms are maintained in good order and repair.
(Issue 9)
9. Marae-based Aquaculture is recognised as a significant opportunity for Maori to enhance their wellbeing.
(Issue 11)

27.4 POLICIES

Establishment and Development of Aquaculture Activities -Matters for Consideration

1. Enabling aquaculture can provide benefits to local communities, Maori, and the Northland region. When considering coastal permit applications for aquaculture activities, key benefits to be taken into account include:
 - Social, cultural and economic benefits, including local employment and enhancing Maori development (e.g. by involvement in the aquaculture industry), particularly in areas where alternative opportunities are limited.
 - Supplementing natural fish and shellfish stocks by providing an alternative source of fish and shellfish.

A further benefit of aquaculture is that it may provide improved information about water quality.

(Objective 2)

Explanation. *Aquaculture has the potential to provide benefits to local communities, Maori, and the Northland Region. Proponents wishing to take advantage of this policy will need to demonstrate the extent of the benefits. A key way which these benefits may be realised is through tangata whenua being directly involved in aquaculture ventures.*

2. The significant opportunity Marae-based Aquaculture provides for Maori to enhance their wellbeing (through improving traditional customary kaimoana

provision for Marae) should be recognised when considering plan changes and coastal permit applications for Marae-based Aquaculture.

(Objectives 4 and 11)

Explanation. *Marae-based Aquaculture can provide significant benefits to the ability of Maori to provide for their well-being. Examples of this include kaimoana for traditional non-commercial purposes, and as a way of expressing mana (status) within the rohe moana (territorial waters) of a marae. These benefits should be taken into account when considering coastal permit applications for Marae-based aquaculture. A key difference between typical "commercial" scale aquaculture and Marae-based Aquaculture is that the farmed kaimoana cannot be sold (see definition of Marae-based Aquaculture).*

- 2a. When considering coastal permit applications for aquaculture activities within Maori oyster reserves (as defined in the Fisheries (Auckland and Kermadec Amateur Fishing) Regulations 1986), appropriate recognition should be given to the history of those reserves and the significant benefit that aquaculture can provide to Maori.

(Objective 1 and 3)

Explanation. *Maori oyster reserves are currently recognised by Regulation. Put simply, they are areas of the coastal marine area where only Maori are allowed to take oysters. Several such reserves are located in the Northland region. Historically, the reserves were managed by committees that were representative of the local Maori community. The committee had the authority to manage the harvest, enhance the oyster fishery in the reserve, and sell surplus oysters. Aquaculture is one method Maori can use for the management and enhancement of Maori oyster reserves to provide for their social, economic and cultural wellbeing.*

3. All adverse environmental effects of aquaculture activities are avoided as far as practicable. Where it is not practicable to avoid significant adverse effects, these should be remedied or mitigated.

(Objectives 1, 4 and 9)

Explanation. *To achieve the sustainable management of aquaculture in the Northland region, aquaculture activities will only be established where effects on other values and uses of the coastal environment are as far as practicable avoided. Where significant adverse effects cannot be avoided, then these should be remedied or mitigated.*

4. It is recognised and will be taken into account that different aquaculture species and/or farming structures have particular biophysical and infrastructural requirements, limiting where such activity can be located.

(Objective 1)

Explanation. *To achieve the sustainable management of aquaculture in Northland, the Council will recognise that different types of aquaculture activities have specific biophysical and locational requirements. For example, conventional mussel farms usually require longlines and relatively deep water to achieve optimum growth, while oyster farms are generally established within sheltered inter-tidal areas.*

5. When considering coastal permit applications or any plan change request for aquaculture activities, particular consideration will be given to the following matters:
 - a) The type of aquaculture and species proposed to be farmed and the suitability of the location for the proposed aquaculture activities;
 - b) The nature and sensitivity of the existing environment in the proposed site;
 - c) Any lawful existing uses of the area, including public access, safe navigation and customary uses, and the extent to which those uses may be adversely affected;
 - d) The potential positive and adverse effects of the proposed aquaculture activities on natural, social, cultural and economic values;
 - e) The identification and location of any associated structures, facilities and activities required within the coastal marine area (within and outside the proposed site); and
 - f) The need for the integrated management of any associated land use effects outside the coastal marine area.

(Objectives 1, 2, 3, 4 and 9)

Explanation. *These are the key matters to address when considering coastal permit applications and plan changes for aquaculture activities. General information requirements for any plan changes for Marine 3 (Aquaculture) Management Areas and coastal permit applications for aquaculture activities are specified in Section 27.7.*

6. Aquaculture activities will not be appropriate in the following areas:
 - a) Areas of the coastal marine area where a Marine Reserve has been established or publicly notified under the Marine Reserves Act 1971;
 - b) Marine 1 (Protection) Management Areas;
 - c) Locations within Marine 2 (Conservation) Management Areas where adverse effects (actual or potential) of aquaculture activities on the following are unavoidable:
 - (i) Residential activities in significant urban areas provided for in operative District Plans, which activities are existing at 09 May 2016, authorised by unexercised resource consents or enabled by operative District Plan provisions having permitted, controlled, restricted discretionary or discretionary activity status; or
 - (ii) Significant tourism and/or recreation areas; or
 - (iii) Areas of outstanding natural character and/or outstanding natural landscapes (including seascapes); or

- (iv) Recognised navigational routes (commercial and recreational), , recognised anchorages of refuge, and/or port or harbour approaches; or
- (v) Taxa, indigenous ecosystems and vegetation types, habitats, and areas listed in NZCPS Policy 11(a); or
- (vi) Existing aquaculture (either because there is no/limited space or the area is at its production or ecological carrying capacity)
- d) Marine 4 (Mooring) Management Areas
- e) Marine 5 (Port Facilities) Management Areas
- f) Marine 6 (Wharves) Management Areas
- g) Places, sites and areas identified in Rarangi Taonga: the Register of Historic Places, Historic Areas, Waahi Tapu and Waahi Tapu Areas (Historic Places Trust, Historic Places Act 1993).

Exceptions to b) and c):

- (h) Marae-based aquaculture may be considered appropriate in Marine 1 (Protection) Management Areas and the locations within Marine 2 (Conservation) Management Areas in Appendix 12, where the adverse effects on the values represented by these areas are no more than minor.
- (i) Aquaculture activities may be considered appropriate in the outer Kaipara Harbour Marine 1 (Protection) Management Area where they have no more than minor adverse effects on the values represented by this area.
- (j) Relocations of existing farms within the northern Parengarenga Harbour Marine 1 (Protection) Management Area and the Waikare Inlet Marine 2 (Conservation) Management Area in Appendix 12.
- (k) Aquaculture activities in the Maori oyster reserve in the outer Kaipara Harbour Marine 1 (Protection) Management Area.
- (l) Currently authorised aquaculture activities.

(Objectives 1, 4, 4a and 11)

Explanation. *These areas contain identified significant values which are considered to be generally incompatible with aquaculture activities, and have been through a robust statutory and/or public process, and therefore aquaculture activities should generally be prohibited in these areas. The above areas are shown in the Aquaculture Prohibited Areas Maps – Appendix 12.*

Marine reserves and aquaculture activities are generally incompatible.

Marine 1 (Protection) Management Areas (MM1 areas) are those identified for their significant environmental values.

The locations within Marine 2 (Conservation) Management Areas (MM2 areas) listed in Appendix 12 are those unsuitable for new aquaculture activities.

Significant urban areas (where an urban zoning enables residential activities on relatively small lots and the population density is markedly greater than the surrounding area) and aquaculture would generally be incompatible. The adverse effects of aquaculture on recreation, tourism, navigation and visual aspects are likely to be elevated and significant where it would be close to a concentration of people. Also aquaculture generally relies on good water quality, and the water quality adjacent to significant urban areas, particularly within confined water spaces such as harbours, can be degraded. This can lead to reverse sensitivity effects.

Significant tourism and/or recreation activities in the Northland CMA are generally found in locations where one or more of the following attributes or resources are present:

- (a) Public reserves*
- (b) Outstanding natural character and/or outstanding natural landscapes (including seascapes)*
- (c) Recognised recreational anchorages*
- (d) Tourism facilities or services*
- (e) Outstanding natural features (for example Piercy Island)*
- (f) Concentrations of marine mammals, seabirds and fish (for example fishing grounds and dolphin watching locations)*
- (g) Recognised dive sites*
- (h) Popular beaches*
- (i) Popular surf breaks*
- (j) Coastal walkways*
- (k) Significant historic heritage*

In most instances, the adverse effects of aquaculture on significant tourism and/or recreation activities would be unavoidable. Aquaculture generally occupies relatively large areas and includes structures that sit below, on and/or above the water surface or in intertidal areas. Where there is a concentration of tourism and/or recreation activity, these structures can significantly impede access and/or detract from the values that attract people to the area.

MM4, 5 and 6 areas are unsuitable for aquaculture as they would be incompatible with the activities these areas provide for (moorings and marinas, port facilities, and commercial wharves respectively).

There are very few registered historic places, sites or areas within the coastal marine area of Northland. It is highly unlikely that aquaculture activities would be compatible with the values represented by any registered historic place, site or area.

Marae-based aquaculture is small, and as such, with careful design and location, the adverse effects on the identified values of MM1 areas (refer Appendix 6) and the identified MM2 areas (refer Appendix 12) may, depending on the specific location and proposal, be no more than minor. This, coupled with the recognition of the significant benefits Maraе-based aquaculture could provide, mean that Maraе-based aquaculture may in some cases be appropriate in these areas. One of the main reasons the outer Kaipara Harbour was identified as a MM1 area is because of the important habitat intertidal areas and coastal wetlands provide for

significant bird species. However the outer Kaipara Harbour has large areas of sub tidal water space where aquaculture activities, depending on the specific location and proposal, could occur while avoiding adverse effects on the significant bird species and their habitats. Another significant aspect of the outer Kaipara Harbour is the unique ecosystem in and adjacent to the harbour entrance. Again, there is enough space within the harbour to accommodate aquaculture activities while avoiding adverse effect on this ecosystem.

Parengarenga Harbour is a MM1 area principally because of the important habitat intertidal areas and coastal wetlands provide significant bird species. The significant bird species and their habitats in the Parengarenga Harbour are generally in the southern part of the harbour. Most of the aquaculture activities (oyster farms) are in the northern part of the harbour. These oyster farms could be relocated into and within the northern part of the harbour while avoiding adverse effect on the significant bird species and their habitats.

The Waikare Inlet is an area where there are concerns about the amount of available food (plankton) in the water. There is currently over 77 hectares of approved oyster farming space in the inlet. Any more oyster farms, or other filter feeding shellfish farms, could reduce the yield from the existing oyster farms and adversely impact naturally occurring filter feeding plants and animals. While it would be inappropriate to allow more filter feeding aquaculture, the existing oyster farms could be relocated without affecting food availability.

Maori oyster reserves have been in existence since the early 20th century. They were established in response to Maori concerns that government restrictions on the harvesting of oysters denied Maori access to local kaimoana resources that were customarily used to feed their families. The legislation establishing oyster reserves provided that only Maori who were resident in the immediate vicinity (essentially tangata whenua) were permitted to take oysters from each area.

The legislation governing Maori oyster reserves has changed over time. Of note, from 1965 to 1983 the Minister could appoint local committees of management. These committees managed the oyster beds and could undertake such activities as selling the oysters and using the money used to cultivate or grow more oysters. In 1983 the fisheries legislation removed the ability for the Minister to appoint committees. Maori oyster reserves are currently governed by the Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986.

Te Uri o Hau is unique in that its 2002 settlement legislation recognises the significance of the oyster reserves to Te Uri o Hau and provides the Governor General the ability to make regulations to give Te Uri o Hau management functions over the oyster reserves in the Kaipara Harbour. Also Te Uri o Hau have identified aquaculture as an activity that could complement and support the customary management of their oyster reserves, including through commercial development of the reserve. For these reasons, it is appropriate that coastal permits for aquaculture activities can be applied for within the Maori oyster reserve in the Outer Kaipara MM1 area.

There are some authorised marine farms that are either in a MM1 area or a MM2 area identified in Appendix 12. It is appropriate that these existing

farms have the opportunity to apply for a coastal permit to continue the same activity.

Advice note. Where an applicant wishes to propose an aquaculture activity at a location shown on the Aquaculture Prohibited Area Maps (Appendix 12) that would avoid adverse effects on the matters listed in Policy 27.4.9(a)–(g), but it is a prohibited activity, the proposal should be made by way of a private plan change for a specific location and aquaculture activity and be processed accordingly.

7. Aquaculture activities should have no adverse effects on;
 - a) The use and functioning of existing coastal structures including jetties, wharves, boat ramps underwater pipes, and underwater cables,
 - b) Consented sand dredging zones,
 - c) Defence exercise areas,
 - d) Access Lanes as referred to by the Navigation Safety Bylaw, and
 - e) The management purpose or objectives of:
 - (i) Any gazetted Taiapure or Mahinga Mataitai reserve;
 - (ii) Any area for which fisheries restriction methods have been established under the Fisheries Act 1996 and Regulations, including any Maori Oyster Reserve or set netting ban;
 - (iii) Any Protected Customary Rights and Customary Marine Titles issued under the Marine and Coastal Area (Takutai Moana) Act 2011; and
 - (iv) Any Wildlife Refuge established under the Wildlife Act 1953.
 - (v) Areas of the coastal marine area where a Marine Mammal Sanctuary has been established or publicly notified under the Marine Mammals Protection Act 1977;
 - (vi) Areas of the coastal marine area where a Ramsar site has been established or publicly notified under the Ramsar Convention 1971⁸.
 - (vii) Any Marine Park established by or through statutory or regulatory processes
- (Objectives 1, 3, 4 and 4a)

Explanation. *The existing uses and values listed in the policy are considered a priority over aquaculture and should be protected. Aquaculture is likely to adversely affect the use or functioning of the above sites and areas. Accordingly, aquaculture activities that have adverse*

⁸ The Ramsar Convention was adopted in the Iranian city of Ramsar in 1971 and is an intergovernmental treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources.

effect on these existing structures and uses should not be considered favourably.

Access Lanes include water ski and jet ski lanes.

The sites listed in e) do not preclude the establishment of aquaculture activities but they may be sensitive to the establishment of aquaculture activities. For example, the commercial and recreational fishing set net ban from Mangonui Bluff extending southward beyond the Kaipara Harbour seeks to protect the critically endangered Maui Dolphin population. Accordingly, the management purpose of such sites should be taken into account when considering plan changes and coastal permit applications for aquaculture activities.

The principle of de minimis applies when considering whether an aquaculture activity will have an adverse effect. Put simply, de minimis means something that is too small to be concerned with.

8. Aquaculture activities should avoid significant adverse effects on:
 - a) The integrity, functioning and resilience of coastal processes and ecosystems;
 - b) Migration routes, breeding, feeding or hauling out areas for marine mammals;
 - c) Public access to and along the coast;
 - d) Use or functioning of coastal reserves and conservation areas;
 - e) Sites and/or areas of spiritual, historical or cultural significance to Maori, traditional fisheries habitats or recognised customary activities;
 - f) Registered sites of historic heritage value;
 - g) High natural character areas; or
 - h) Taxa, indigenous ecosystems and vegetation types, habitats, and areas listed in NZCPS Policy 11(b)

(Objectives 1 3, 4, and 5)

Explanation. *Aquaculture activities may have significant adverse effects on other important uses and values within the coastal marine area. Many of these effects can be avoided, remedied or mitigated by appropriate site selection, design and farm management practices.*

9. Aquaculture activities should be located in areas that have suitable access, and where they can be supported by adequate and appropriate land based infrastructure where required.

(Objective 4 and 9)

Explanation. *Aquaculture activities undertaken in the coastal marine area may require supporting infrastructure on land, such as access, processing, and waste disposal facilities. It is important that aquaculture activities are located where such requirements can be met.*

10. Aquaculture activities should provide for the integrated management of the associated activities, including any required land based facilities and operations.

(Objective 4 and 9)

Explanation. *Aquaculture activities may require associated land-based infrastructure and facilities, which may have strategic implications for district councils. To achieve integrated management, there needs to be a consistent and co-operative approach to aquaculture adopted by the applicant and relevant consent / local authorities.*

11. Aquaculture activities which are for the purpose of harvesting shellfish for human consumption will not be considered within any part of the coastal marine area deemed unsuitable under the relevant regulations or standards for the growing and/or harvesting of shellfish.

(Objectives 1 and 4)

Explanation. *To prevent the harvest of shellfish product for human consumption from contaminated areas, the regulated control scheme currently administered by the New Zealand Food Safety Authority provides for the classification of shellfish growing areas into six categories from 'approved' to 'prohibited'. Those areas actively classified as 'prohibited' by the NZ Food Safety Authority will not be considered suitable locations for the establishment of aquaculture activities. The relevant regulations at the time of writing are the Animal Products (Bivalve Molluscs and Shellfish) Regulations 2006.*

12. Aquaculture structures should be located, maintained, marked and lit in a way which does not compromise the safety of commercial or recreational navigation.

(Objective 4)

Explanation. *It is important that any structures within the coastal marine area are appropriately located, maintained, marked, and lit to ensure that a navigational hazard is not presented to other marine users. Structures that are poorly maintained also have an increased potential to become a navigational hazard. The Maritime New Zealand document "Guidelines for Aquaculture Management Areas and Marine Farms" identifies relevant navigational issues and describes the criteria that regional councils and marine farm applicants should be aware of during the process of the establishment and management of marine farms.*

13. Aquaculture activity proponents should demonstrate that any associated use of existing boatramps, jetties and wharves will not unduly compromise the public use of these facilities.

(Objectives 1, 4 and 9)

Explanation. *Aquaculture activities may require the use of existing boat launching and servicing facilities, potentially displacing existing public access and use. The Council will ensure that private use associated with aquaculture activities is not at the expense of the public use of these facilities.*

14. New aquaculture activities may be required to be developed and monitored in a staged manner, for example where:
 - a) The potential adverse effects cannot adequately be predicted;
 - b) New species are farmed or new technology utilised; or
 - c) The scale or type of marine farm warrants a cautious approach.

(Objective 4)

Explanation. *In some cases, significant uncertainty will exist in assessing aquaculture activities. Risks are greatest for large marine farms, new types of marine farming or the adoption of new technology where limited precedent exists. In these cases, farms may be required to develop in a progressive manner so that adverse effects can be monitored, understood and appropriately managed, before full scale farming is approved.*

15. The duration of coastal permits for aquaculture activities will be limited to a maximum of 25 years. Where the adverse effects are not well known (e.g., new species and/or farming methods), a lesser coastal permit duration may be used as a way to manage the potential impact.

(Objectives 1, 4 and 7)

Explanation. *A maximum of 25 years is considered to be an efficient use of resources. Aquaculture is a 'private' use of public space that otherwise may be used for many different purposes. In the future, there may be other uses of the coastal environment that could provide considerable community benefits (more so than aquaculture) but be significantly fettered by the presence of aquaculture. At the same time, 25 years still allows adequate security of tenure for investment, development and profit.*

There may be situations where the adverse effects of a proposed aquaculture activity will not be well known and not able to be adequately managed by consent conditions. One method to manage such effects is to impose a short duration of consent. The duration would be proportionate to the degree of knowledge of the adverse effects.

16. Coastal permit holders for aquaculture activities involving structures in the coastal marine area will be required to cover potential costs associated with the repair or removal of abandoned or derelict farms and reinstatement of the environment.

(Objectives 4 and 10)

Explanation. *Costs associated with the repair or removal of abandoned marine farms or reversal of adverse environmental effects may not be able to be recovered by the Council once a farm has been abandoned. Under Sections 108 and 108A of the RMA, the Council can require a mechanism for coastal permit holders to cover these costs prior to the installation of a farm.*

17. The Council will require the repair or removal of structures used or associated with aquaculture activities that have been abandoned or have fallen into a state of disrepair.

(Objective 10)

Explanation. *The presence of derelict oyster farms has been a long-standing issue in Northland. Where the derelict farms are authorised under the Marine Farming Act, the Ministry of Primary Industries is responsible for addressing the matter. Where the farm is authorised under the Resource Management Act 1991, the Council will undertake action as appropriate.*

18. Where the specific details of the proposed aquaculture activity (including the species to be farmed, whether staged development is appropriate, and details of any proposed structures) have been included in the regional coastal plan by way of a plan change to establish the relevant aquaculture management area (Marine 3 (Aquaculture) Management Area), and the application for the coastal permit is in accordance with the specified use of the aquaculture management area, it will be a controlled activity (unless otherwise specified by any other rule or rules).

(Objective 1)

Explanation. *Where a management area has been established for specified aquaculture activities, the details of the proposed aquaculture activities will have been considered and assessed through the notified planning process. Therefore, there is little need to reconsider and reassess the same effects, other than clarifying the detail (i.e. the matters over which control is maintained).*

19. When considering coastal permit applications the Council will take into account the potential of the proposed activity to adversely affect the availability of food (plankton) in the water for existing aquaculture activities.

(Objective 8)

Explanation. *Where aquaculture activities are established, it is necessary to manage other proposed activities to the extent necessary to ensure that the viability of identified aquaculture activities is not adversely affected.*

27.5 METHODS OF IMPLEMENTATION

Investigations and Monitoring

(For Policies 1, 4, 5, 6, 7, and 8)

1. The Council may undertake studies of the ecological carrying capacity of areas of high demand for aquaculture, to establish a scientifically based threshold for aquaculture development.

(For Policy 6)

2. The Council will develop a register of sites containing significant historic heritage values within the coastal marine area.

(For Policies 4 and 14)

3. The Council will undertake state of the environment monitoring, where required, to enable a broad assessment of the effects of aquaculture on the Northland environment to be made.