

**IN THE ENVIRONMENT COURT  
AT AUCKLAND**

**I TE KŌTI TAIAO O AOTEAROA  
KI TĀMAKI MAKĀURAU**

**Decision [2022] NZEnvC 131**

IN THE MATTER OF an appeal under clause 14 of the First  
Schedule of the Resource Management  
Act 1991

BETWEEN

AQUACULTURE NEW ZEALAND  
(ENV-2019-AKL-000124)

CEP SERVICES MATAUWHI  
LIMITED  
(ENV-2019-AKL-000111)

MLP LLC  
(ENV-2019-AKL-000109)

PAROA BAY STATION LIMITED  
(ENV-2019-AKL-000113)

MATAKA RESIDENTS  
ASSOCIATION INCORPORATED  
(ENV-2019-AKL-000112)

ROBINIA INVESTMENTS LIMITED  
(ENV-2019-AKL-000115)

ROYAL FOREST AND BIRD  
PROTECTION SOCIETY OF NEW  
ZEALAND INCORPORATED  
(ENV-2019-AKL-000127)

YACHTING NEW ZEALAND  
INCORPORATED  
(ENV-2019-AKL-000118)

Appellants



AND

NORTHLAND REGIONAL  
COUNCIL

Respondent

Court: Environment Judge J A Smith sitting alone under s 279 of the Act

Last case event: 5 July 2022

Date of Order: 20 July 2022

Date of Issue: 20 July 2022

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### CONSENT DETERMINATION

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A: Under section 279(1)(b) of the Resource Management Act 1991, the Environment Court, by consent, orders that:

- (1) the appeals are allowed in accordance with **Annexure A** to this order;
- (2) no appeal points remain outstanding in Topic 1A – Aquaculture. Topic 1A is closed.

B: Under section 285 of the Resource Management Act 1991, there is no order as to costs.

### REASONS

#### Introduction

[1] These appellants have appealed provisions of the Proposed Regional Plan for Northland as they relate to Topic 1A – Aquaculture.

[2] The Court has now read and considered the consent memorandum of the parties dated 30 June 2022, which proposes to resolve the appeals as they relate to:

- (a) Rule C.1.3.1 Re-consenting aquaculture (not finfish) – controlled activity;

- (b) Rule C.1.3.2 Reconsenting aquaculture (not finfish) in a significant area – restricted discretionary activity;
- (c) Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity;
- (d) Rule C.1.3.4 Extensions to authorised aquaculture – restricted discretionary activity;
- (e) Rule C.1.3.5 Re-consenting finfish aquaculture – discretionary activity;
- (f) Rule C.1.3.6 Aquaculture outside significant areas and development zones – discretionary activity;
- (g) Rule C.1.3.7 New aquaculture in an authorised area – discretionary activity;
- (h) Rule C.1.3.9 Extensions to existing aquaculture in significant areas and development zones – discretionary activity;
- (i) Rule C.1.3.10 Marae-based aquaculture in significant areas and development zones – discretionary activity;
- (j) Rule C.1.3.11 Relocation of aquaculture within the Waikare Inlet – discretionary activity;
- (k) Rule C.1.3.11A Relocation of aquaculture within the Pārengarenga Harbour – non-complying activity;
- (l) Rule C.1.3.12 Small scale and short duration aquaculture in significant areas and development zones – non-complying activity;
- (m) Rule C.1.3.13 Aquaculture in a Significant Ecological Area in the Kaipara Harbour – non-complying activity;
- (n) Rule C.1.3.14 Aquaculture in significant areas and development zones – prohibited activity;
- (o) Policy D.5.1 Aquaculture – benefits;
- (p) Policy D.5.2 Aquaculture – existing activities, realignment, extensions and small scale short duration activities;
- (q) New Policy D.5.2A Aquaculture in the Bay of Islands Aquaculture Exclusion Area;
- (r) Policy D.5.3 Aquaculture – avoid adverse effects;
- (s) Policy D.5.4 Aquaculture – avoid significant adverse effects;
- (t) Policy D.5.5 Aquaculture – general matters;

- (u) Policy D.5.6 Aquaculture – staged development;
- (v) Policy D.5.7 Aquaculture – abandoned or derelict farms;
- (w) Maps – Aquaculture exclusion areas.

[3] The following persons gave notice of their intention to become parties to one or more of the appeals under s 274 of the Act:

- (a) Aquaculture Industry Parties (Aquaculture New Zealand, New Zealand Oyster Industry Association and Moana New Zealand Limited);
- (b) Bay of Islands Maritime Park Incorporated;
- (c) Christopher Mace;
- (d) CEP Services Matauwhi Limited;
- (e) Dean Farmer;
- (f) Minister of Conservation;
- (g) MLP LLC;
- (h) Philip Thornton;
- (i) Patuharakeke Te Iwi Trust Board;
- (j) Royal Forest and Bird Protection Society of New Zealand Incorporated;  
and
- (k) Yachting New Zealand.

[4] The parties participated in Court-assisted mediation on the appeals in September 2019 as well as subsequent informal discussion. The parties have reached agreement on the provisions under appeal.

#### **NES-MA**

[5] Resolution of the appeals was complicated by the promulgation of the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 (**NES-MA**) in July 2020, which took effect on 1 December 2020.

[6] NES-MA was promulgated in response to the realisation that many marine farm consents will expire between 2020 and 2025 and that different regions provide different regimes for considering replacement consent applications for aquaculture activities. NES-MA was promulgated to increase consistency, ensure that

environmental effects are appropriately managed and to increase aquaculture industry confidence and promote investment.

[7] NES-MA provides detailed regulations managing activity status and providing matters of discretion for applications to replace coastal permits for existing marine farms or to change the consented species. NES-MA provides that rules in regional plans may be more stringent than NES-MA in some cases<sup>1</sup> or more lenient in others.<sup>2</sup>

[8] Although NES-MA is complex, its interface with the Proposed Plan is more discrete than other national environmental standards (e.g. the National Environmental Standards for Freshwater). As NES-MA only interfaces with some of the Proposed Plan's aquaculture rules, the parties agreed to consider amendments to the NES-MA<sup>3</sup> alongside negotiation on the outstanding appeal points.

[9] The agreed provisions include changes to resolve appeal points as well as changes to remove duplication or conflict between the Proposed Plan and NES-MA.

**Rule C.1.3.1 Re-consenting aquaculture (not finfish) – controlled activity**

**Rule C.1.3.2 Re-consenting aquaculture (not finfish) in a significant area – restricted discretionary activity**

[10] Rule C.1.3.1 provides that an application for a new coastal permit for the occupation of the common marine and coastal area for the purposes of an aquaculture activity to replace a coastal permit outside of specified mapped areas is a controlled activity, subject to conditions.

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<sup>1</sup> Under reg 13, rules may be more stringent than reg 12, which relates to replacement of coastal permits for existing marine farms in “inappropriate areas for existing aquaculture activities”. The Landowners wish to record that they consider the Aquaculture Exclusion Area is an “inappropriate area for existing aquaculture activities” but chose not to pursue the issue given the broader resolution reached through mediation. The Aquaculture Industry Parties consider that the Aquaculture Exclusion Area does not meet the definition of “inappropriate areas for existing aquaculture activities” in NESMA reg 6, although there is no need to elaborate on that, given the agreement reached via mediation.

<sup>2</sup> Rules may be more lenient than regs 14 to 16, 26, 29, 32, 35 or 38, which relate to replacement of coastal permits for existing marine farms or replacement and change of consented species (per regs 23 and 43).

<sup>3</sup> Proposed by Council in accordance with its obligations under s 44A RMA.

[11] Rule C.1.3.2 provides that an application for a new coastal permit to replace a coastal permit for the occupation of the common marine and coastal area for the purposes of an aquaculture activity in a mapped area of significance is a restricted discretionary activity, subject to conditions.

[12] Both rules were appealed by:

- (a) Mataka Residents Association Incorporated, Robinia Investments Limited and Paroa Bay Station (**the Landowners**), seeking:
  - (i) that the rules are amended so that re-consenting existing aquaculture in an Aquaculture Exclusion Area (**AEA**) is a fully discretionary activity;
  - (ii) that the rules are amended so that Outstanding Natural Landscapes (**ONL**) are protected in the same manner as an Outstanding Natural Character (**ONC**) area; and
  - (iii) that Rule C.1.3.2 is amended so that re-consenting existing aquaculture in a Significant Ecological Area (**SEA**), Outstanding Natural Feature (**ONF**), ONC or Site or Area of Significant to Tangata Whenua (**SSTW**) is a fully discretionary activity.
- (b) Aquaculture New Zealand, seeking that the rules are amended to encompass all consents necessary for aquaculture activities, including the erection or placement of structures;
- (c) Royal Forest and Bird Protection Society of New Zealand (**Forest & Bird**), seeking that:
  - (i) Rule C.1.3.1 is amended to include ONLs and areas of High Natural Character (**HNC**) as relevant mapped areas, the matters of control are amended to include adverse effects on ONLs, SEA and ONC or HNC, and other amendments including replacing “minimise” with “avoid or mitigate”;
  - (ii) Rule C.1.3.2 is amended to include areas of HNC as a relevant mapped area, the matters of discretion are amended so that the effects on ONLs, Significant Bird Areas (**SBA**) and HNC are recognised and other wording amendments.

- (d) CEP Services Matauwhi Limited (**CEP Services**), seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule, and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”

[13] Following mediation and subsequent discussions, the parties agreed to:

- (a) amend the rules to clarify that they cover the consenting of the erection or placement of structures;<sup>4</sup>
- (b) include “Outstanding Natural Landscape” as a relevant mapped area in both rules, and as a relevant matter of discretion in rule C.1.3.2;<sup>5</sup>
- (c) amend the rules to remove conflict with NES-MA; and
- (d) include other minor wording amendments.

[14] The parties consider the amendments are appropriate as they:

- (a) clarify that the rules cover the re-consenting of the erection or placement of structures for aquaculture activities (on the basis that existing aquaculture structures cannot be a permitted activity under rule C.1.1.1,<sup>6</sup> and to avoid any argument that there is a “regulatory gap” for such activities);
- (b) ensure that existing aquaculture cannot be re-consented as a controlled activity within ONLs, and that effects on ONLs is a matter of discretion for re-consenting existing aquaculture within ONLs;<sup>7</sup>

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<sup>4</sup> A corresponding Note has been added at the start of C.1.1 General Structures, noting that the rules in that section do not apply to aquaculture activities.

<sup>5</sup> Nothing that ONLs in the coastal marine area have not yet been mapped and included in the Proposed Plan. However, this process is currently being undertaken as part of Topic 17 – Outstanding Natural Landscapes.

<sup>6</sup> Section 68A RMA.

<sup>7</sup> This is consistent with NES-MA reg 21, which makes the effects of the activity on the values and characteristics an additional matter of discretion for farms located within an outstanding area.

- (c) better align the matters of control and discretion with NES-MA, while avoiding duplication and
- (d) improve the clarity and readability of both rules.

### **Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity**

[15] Rule C.1.3.3 provides that the realignment of an area occupied by an authorised aquaculture activity in the common marine and coastal area, the associated erection or placement of a structure, and any associated discharge, is a restricted discretionary activity subject to conditions.

[16] Rule C.1.3.3 was appealed by:

- (a) The Landowners, seeking to delete the rule or amend it so that it does not apply within an AEA, SEA, ONF, ONC, Mooring Zone or SSTW. The Landowners also sought that the rule be amended so that ONLs are protected in the same manner as ONC areas.
- (b) Forest and Bird, seeking that the third matter of discretion is amended as follows: “Adverse effects on marine mammals and seabirds, including minimising interactions with the marine farm, such as ~~including~~ entanglement.”
- (c) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”



[17] Following mediation and subsequent discussions, the parties agreed to include “Outstanding Natural Landscape” as a matter of discretion. The parties also agreed to a number of amendments to remove conflict with NES-MA.

[18] The parties consider that including “Outstanding Natural Landscape” as a matter of discretion is appropriate as it ensures that effects on the characteristics, qualities and values of ONLs can be addressed.<sup>8</sup>

**Rule C.1.3.4 Extensions to authorised aquaculture – restricted discretionary activity**

[19] Rule C.1.3.4 provides that an extension to the area that an aquaculture activity is authorised to occupy in the common marine and coastal area, the associated erection or placement structures and any associated discharge, is a restricted discretionary activity outside of specified mapped areas subject to conditions.

[20] Rule C.1.3.4 was appealed by:

- (a) The Landowners, seeking to retain the requirement that the rule does not apply within and AEA SEA, ONF, ONC, Mooring Zone or SSTW. The Landowners also sought that the rule be amended so that ONLs are protected in the same manner as ONC areas;
- (b) Forest & Bird, seeking that the sixth matter of discretion is amended as follows: “Adverse effects on marine mammals and seabirds, including minimising interactions with the marine farm, such as ~~including~~ entanglement.”;
- (c) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”;

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<sup>8</sup> This is also consistent with the additional matter of discretion in NES-MA reg 22(2)(d) for farms being realigned within a mapped ONL.

- (d) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

- [21] Following mediation and subsequent discussions, the parties agreed to:
- (a) include “Outstanding Natural Landscape” as a relevant mapped area and as a matter of discretion;
  - (b) amend the sixth matter of discretion (6) as sought by Forest & Bird;
  - (c) include a matter of discretion relating to effects on characteristics, qualities and values that contribute to mapped areas of HNC, for activities in the Bay of Islands Aquaculture Exclusion Area.<sup>9</sup>

- [22] The parties consider the amendments are appropriate as they:
- (a) ensure that the activity cannot occur within ONLs and ensures that the effects on the characteristics, qualities and values of ONLs can be assessed as a matter of discretion;
  - (b) clarify that adverse effects on marine mammals and seabirds, including minimising interactions with the marine farm, can be assessed as a matter of discretion; and
  - (c) ensure that if the activity is within the Bay of Islands Aquaculture Exclusion Area, effects on the characteristics qualities and values that contribute to mapped areas of HNC can be assessed.

#### **Rule C.1.3.5 Re-consenting finfish aquaculture – discretionary activity**

[23] Rule C.1.3.5 provides that an application for a new coastal permit to replace a coastal permit for the occupation of the common marine and coastal area for the purposes of a finfish aquaculture activity, any associated erection or placement of structures and any associated discharge, is a discretionary activity provided certain conditions are met.

[24] Rule C.1.3.5 was appealed by:

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<sup>9</sup> Alongside the agreement to add new policy D.5.2A – Aquaculture in the Bay of Islands Aquaculture Exclusion Area.

- (a) The Landowners, seeking to retain the discretionary activity status and seeking to amend the rule so that ONLs are protected in the same manner as ONC areas;
- (b) Aquaculture New Zealand, seeking that the rule is amended to encompass all consents necessary for aquaculture activities, including the erection or placement of structures;
- (c) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

[25] The parties agreed to delete Rule C.1.3.5 to remove conflict with NES-MA, which provides for replacement coastal permits for existing marine farms (including finfish farms) as a restricted discretionary activity.<sup>10</sup> NES-MA reg 23 only allows a regional coastal plan to have a more lenient rule. Discretionary rule C.1.3.5 in the Proposed Plan was more stringent, and therefore in conflict with NES-MA. The parties agreed to add Note 3 at the start of C.1.3 to direct Plan users to NES-MA when re-consenting finfish aquaculture.

**Rule C.1.3.6 Aquaculture outside significant areas and development zones – discretionary activity**

[26] Rule C.1.3.6 provides that the erection or placement of structures in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities and any associated discharge, that is not a controlled or restricted discretionary activity is a discretionary activity, provided the area of occupation is not in a specified mapped area.

[27] Rule C.1.3.6 was appealed by:

- (a) The Landowners, seeking to retain the requirement that the rule does not apply within an AEA, SEA, ONF, ONC, Mooring Zone or SSTW. The Landowners also sought that it be amended so that ONLs are protected in the same manner as ONC areas;

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<sup>10</sup> In reg 14. Additional matters of discretion for farms involving fed aquaculture are set out in reg 19.

- (b) Forest & Bird, seeking that SBAs are added to the rule and seeking that policy direction is added to ensure that the effects on adjacent ONLs are assessed under the rule;
- (c) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”

[28] Following mediation and subsequent discussions, the parties agreed to include “Outstanding Natural Landscape” as a relevant mapped area. The parties consider this is appropriate as it ensures that the activity cannot occur within ONLs.

#### **Rule C.1.3.7 New aquaculture in an authorised area – discretionary activity**

[29] Rule C.1.3.7 provides that new aquaculture activities in an area where aquaculture activities are authorised to occupy in the common marine and coastal area, including a change of species or farming method, the erection or placement of structures and any associated discharge of contaminants, are discretionary activities.

[30] Rule C.1.3.7 was appealed by the Landowners seeking that it be deleted.

[31] During mediation, the Landowners confirmed that they would not pursue the appeal point on the basis of the agreement to add new policy D.5.2A Aquaculture in the Bay of Islands Aquaculture Exclusion Area.

[32] The parties agreed to amend the rule to remove duplication of the NES-MA Part 4 change of consented species regulations.

#### **Rule C.1.3.9 Extensions to existing aquaculture in significant areas and development zones – discretionary activity**

[33] Rule C.1.3.9 provides that an extension to an area aquaculture activities are authorised to occupy in the common marine and coastal area, the associated erection

or placement of structures, and any associated discharges in a particular mapped area is a discretionary activity, subject to conditions.

[34] Rule C.1.3.9 was appealed by:

- (a) The Landowners, seeking that it be deleted.
- (b) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”
- (c) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

[35] Following mediation and subsequent discussions, the parties agreed to include “Outstanding Natural Landscape” as a relevant mapped area. The parties consider this is appropriate as it ensures that extensions within ONLs are assessed as fully discretionary activities under rule C.1.3.9, rather than restricted discretionary activities under rule C.1.3.4.

#### **Rule C.1.3.10 Marae-based aquaculture in significant areas and development zones – discretionary activity**

[36] Rule C.1.3.10 provides that the erection or placement of structures in the coastal marine area, any occupation of the common marine area and coastal area for the purposes of marae-based aquaculture, and any associated discharges in a particular mapped area is a discretionary activity.

[37] Rule C.1.3.10 was appealed by:

- (a) The Landowners, seeking that it be amended in accordance with Rule 31.4.10(b) of the Operative Plan, including as to non-complying activity status. The Landowners also sought that it be amended so that ONLs are protected in the same manner as ONC areas.

- (b) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”
- (c) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

[38] Following mediation and subsequent discussions, the parties agreed to include “Outstanding Natural Landscape” as a relevant mapped area. The parties consider this is appropriate as it ensures that the Marae-based aquaculture within an ONL is assessed as a fully discretionary activity.

**Rule C.1.3.11 Relocation of aquaculture within the Waikare Inlet discretionary activity rule**

**Rule C.1.3.11A Relocation of aquaculture within the Pārengarenga Harbour – non-complying activity**

[39] Rule C.1.3.11 provides that the relocation of authorised aquaculture activities within the Waikare Inlet and Pārengarenga Harbour, including the erection or placement of structures in the coastal marine area, any occupation of the common marine and coastal area, and any associated discharge is a discretionary activity, subject to conditions.

[40] Rule C.1.3.11 was appealed by:

- (a) The Landowners, seeking that it be retained. The Landowners also sought that it be amended so that ONLs are protected in the same manner as ONC areas.
- (b) Aquaculture NZ, seeking to delete the reference to extended structures; and
- (c) Forest & Bird, seeking that Pārengarenga Harbour is deleted from the rule.

[41] Following mediation and subsequent discussions, the parties agreed to amend the rule so that it only applies to the Waikare Inlet, not the Pārengarenga Harbour. The parties agreed to include a new non-complying activity rule for the Pārengarenga Harbour: Rule C.1.3.11A Relocation of aquaculture within the Pārengarenga Harbour.

[42] The parties consider that the approach in the Decisions Version that relocation under Rule C.1.3.11 in an identified SEA of the Pārengarenga Harbour is a discretionary activity is not appropriate. The parties consider that having a separate rule with a non-complying activity status for relocation within the Pārengarenga Harbour is the most appropriate way to achieve the Proposed Plan's objectives and policies, including relating to the protection of indigenous biodiversity.

[43] The parties also agreed to delete reference to extended structures, as the rule provides for wholesale relocation of authorised activities, rather than an extension of those activities.

**Rule C.1.3.12 Small scale and short duration aquaculture in significant areas and development zones – non-complying activity**

[44] Rule C.1.3.12 provides that the erection or placement of a structure in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge in a specific mapped area which does not have another activity status, for small scale and short duration aquaculture (meeting the specified conditions) is a non-complying activity subject to conditions.

[45] Rule C.1.3.12 was appealed by:

- (a) The Landowners, seeking that it be deleted.
- (b) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”

- (c) Forest & Bird, seeking it be deleted.
- (d) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.
- (e) MLP LLC, seeking that the rule either be deleted in its entirety or amended so as not to apply within an Aquaculture Exclusion Area.

[46] Following mediation and subsequent discussions, the parties agreed to include “Recognised Recreational Anchorages” and “Outstanding Natural Landscape” as relevant mapped areas. The parties consider this is appropriate as it ensures that an activity occurring within Recognised Recreational Anchorages or ONLs is assessed as a non-complying activity.

[47] The Landowners appeal point was resolved through new policy D.5.2A addressed below.

#### **Rule C.1.3.13 Aquaculture in a Significant Ecological Area in the Kaipara Harbour – non-complying activity**

[48] Rule C.1.3.13 provides that the erection or placement of a structure in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge in a mapped SEA in the Kaipara Harbour, which does not have another activity status is a non-complying activity, subject to a geographical condition.

[49] Rule C.1.3.13 was appealed by Forest & Bird seeking that the rule is deleted (and would therefore be prohibited under rule C.1.3.14), or alternatively, that the rule is amended to exclude aquaculture activities in identified SEAs.

[50] Following mediation and subsequent discussions, the parties agreed to not amend the rule. The parties consider that this is appropriate as Rule C.1.3.13 is spatially limited (by the co-ordinates in clause (5)) and the objectives and policies of the Proposed Plan, coupled with the non-complying activity status, would ensure that the actual and potential effects on any SEA would be fully considered.



**Rule C.1.3.14 Aquaculture in significant areas and development zones – prohibited activity**

[51] Rule C.1.3.14 provides that the erection or placement of a structure in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge in a specific mapped area, which does not have another activity status in section C.1.3 or NES-MA is a prohibited activity.

[52] It was appealed by:

- (a) The Landowners, seeking that it be retained. The Landowners also sought that it be amended so that ONLs are protected in the same manner as ONC areas.
- (b) MLP LLC, seeking the rule be amended to remove reference within an AEA.
- (c) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the rule and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”
- (d) Yachting NZ, seeking that the reference to “Regionally Significant Anchorage” is deleted and replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

[53] Following mediation and subsequent discussions, the parties agreed to include “Outstanding Natural Landscape” as a relevant mapped area. The parties consider this is appropriate as it ensures that the activity cannot occur within ONLs.

[54] The parties agreed to amend the rule to remove conflict with NES-MA.

[55] The parties agreed to amend the note at the beginning of C.1.3 Aquaculture of the Proposed Plan by deleting the reference to Rules C.1.1.7 and C.1.1.10. The parties consider this is appropriate as it clarifies that none of the rules in section C.1.1

General Structures apply to aquaculture activities. Rules C.1.1.7 and C.1.1.10 are permitted activities, so cannot apply to aquaculture.<sup>11</sup>

[56] The parties also agreed to include reference to NES-MA in the note, to alert the plan user's attention to the fact that NES-MA may also apply to existing aquaculture.

### **Policy D.5.1 Aquaculture – benefits**

[57] Policy D.5.1 provides that the significant benefits that existing and new aquaculture can provide to local communities, Māori and the region should be recognised and enabled.

[58] Policy D.5.1 was appealed by:

- (a) the Landowners, seeking that the policy be amended so that Policy D.5.3 Aquaculture – avoid adverse effects takes precedence over it.
- (b) Forest & Bird, seeking to delete the words “to enable”.

[59] Following mediation and subsequent discussions, the parties agreed to amend Policy D.5.1 as follows:

Recognise ~~and enable~~ the significant benefits that existing and new aquaculture can provide to local communities, Māori and the region by providing for aquaculture in appropriate places. Those benefits may include: including

[60] The parties consider it is appropriate to remove the words “and enable” as aquaculture activities are not enabled in all areas. The parties consider the other amendments are also appropriate as they recognise aquaculture by providing for it in appropriate places, consistent with policy 8 of the NZCPS.

### **Policy D.5.2 Aquaculture – existing activities, realignment, extensions, and small scale short duration activities**

#### **New Policy D.5.2A Aquaculture in the Bay of Island Aquaculture Exclusion Area**

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<sup>11</sup> Section 68 RMA.

[61] Policy D.5.2 directs that the continued operation, realignment and extension of existing aquaculture activities, and aquaculture research trials and experimental aquaculture activities should be provided for and enabled.

[62] Policy D.5.2 was appealed by:

- (a) The Landowners seeking that the policy be amended to refer to AEA, SEA, ONF, ONC, Mooring Zones or SSTW and to describe “significant tourism and/or recreation areas” in accordance with the Operative Plan.
- (b) Forest & Bird, seeking that the policy is amended to identify the policies that it is subject to where adverse effects must be avoided.
- (c) CEP Services, seeking the addition of “Outstanding Natural Landscape Buffer” as a further identified mapped area in the policy and to replace the phrases “Significant Ecological Area” and “Significant Bird Area” with “Significant Ecological Area or Significant Bird Area or any other area that meets the criteria for ‘significance’ given in Appendix 5 of the Regional Policy Statement for Northland for any indigenous biodiversity other than marine mammals or seabirds.”

[63] Following mediation and subsequent discussions, the parties agreed to amend the policy as follows:

Subject to the other relevant policies in D.1, D.2 and D.5 of this Plan ~~D.5.5, D.5.6, and D.5.7~~ provide for ~~and enable~~:

- (a) the continued operation of existing aquaculture activities (including their realignment), and
- (b) the extension of existing aquaculture activities (except in the areas addressed in D.5.2A), and
- (c) ~~and for small scale short duration~~ aquaculture research trials and experimental aquaculture activities (except in the areas addressed in D.5.2A). ~~provided that:~~

[64] The parties also agreed to delete clauses (1) and (2), on the basis that those clauses were captured by reference to “the other relevant policies in D.1, D.2 and D.5 of this Plan” in the chapeau.

[65] In addition, the parties agreed to include new Policy D.5.2A – Aquaculture in the Bay of Islands Aquaculture Exclusion Area. Policy D.5.2A provides that new aquaculture activities in the Bay of Islands Aquaculture Exclusion Area are not appropriate (with limited specified exceptions) and that extensions and small scale short duration research trials and experimental aquaculture activities are generally inappropriate, unless certain conditions are met. The new policy includes a map showing the Bay of Islands Aquaculture Exclusion Area, which expressly excludes the Waikare Inlet (so that new aquaculture in Waikare Inlet is governed by policy D.5.2).

### **Policy D.5.3 Aquaculture – avoid adverse effects**

[66] Policy D.5.3 directs that in addition to any other requirement to avoid adverse effects, aquaculture activities must avoid adverse effects (after taking into account any remediation or mitigation) on certain areas specified in the policy.

[67] Policy D.5.3 was appealed by:

- (a) The Landowners, seeking that it be amended to include reference to AEA, SEA, ONF, ONC, Mooring Zone or SSTW. They also sought that it be amended to describe “significant tourism and/or recreation areas”.
- (b) Yachting NZ, seeking that the reference to “anchorages referred to in cruising guides, pilot books and similar publications as being suitable for shelter in adverse weather” is replaced with “Recognised Anchorages and Recognised Recreational Anchorages”.

[68] Following mediation and subsequent discussions, the parties agreed to replace the reference to “anchorages referred to in cruising guides, pilot books and similar publications as being suitable for shelter in adverse weather” with “Regionally Significant Anchorages.

[69] The parties consider that replacing the above reference with “Regionally Significant Anchorages” is appropriate because the definition better captures the anchorages that the policy intends to cover. It also aligns with the agreement reached in respect of Yachting NZ’s appeal on Topic 1 – Coastal activities, and the new definition and map of Regionally Significant Anchorages.

[70] The parties also consider it is not necessary to include the relief sought by the Landowners, as the policy is additional to any other requirements to avoid adverse effects.

#### **Policy D.5.4 Aquaculture – avoid significant adverse effects**

[71] Policy D.5.4 directs that aquaculture activities should avoid significant adverse effects on coastal processes and ecosystems, public access to and along the coast and the use or functioning of coastal reserves and conservation areas.

[72] Policy D.5.4 was appealed by the Landowners, seeking that it be amended to include the matters in Policy D.5.3 Aquaculture – avoid adverse effects and for consistency with the Operative Plan.

[73] Following mediation and subsequent discussions, the parties agreed to amend the policy as follows:

In addition to any other requirement to avoid significant adverse effects, aquaculture activities should avoid significant adverse effects ~~and avoid, remedy or mitigate other effects~~ on:

- 1) the integrity, functioning and resilience of coastal processes and ecosystems, ~~and~~
- 2) public access to and along the coast, and
- 3) use or functioning of coastal reserves and conservation areas, and
- 4) Recognised Recreational Anchorages

[74] The inclusion of “Recognised Recreational Anchorages” in the policy is consequential and related relief arising from Yachting NZ’s appeal seeking that those anchorages are identified and protected by the Proposed Plan’s policy framework. The parties consider the amendments are appropriate as they ensure that Recognised Recreational Anchorages and the requirement to avoid other significant adverse effects (including taking into account any remediation or mitigation) under Policy D.5.3 are covered by the policy.

#### **Policy D.5.5 Aquaculture – general matters**

[75] Policy D.5.5 covers a list of general matters relating to new aquaculture activities.

[76] It was appealed by the Landowners. During mediation, the Landowners confirmed that they would not pursue the appeal point on the policy.

#### **Policy D.5.6 Aquaculture – stage development**

[77] Policy D.5.6 requires new aquaculture activities to be developed and monitored in a staged manner where the potentially adverse effects cannot be adequately predicted and may be significant.

[78] Policy D.5.6 was appealed by the Landowners. The Landowners sought that the policy be amended to require a precautionary approach be adopted when considering new aquaculture activities under the policy. They also sought that the words “to be developed and monitored in a staged manner” be deleted.

[79] Following mediation, the parties agreed to delete the policy in its entirety. The parties agree this is appropriate as Policy D.2.4 already addresses adaptive management, so Policy D.5.6 is not needed.

#### **Policy D.5.7 Aquaculture – abandoned or derelict farms**

[80] Policy D.5.7 requires coastal permits for aquaculture activities involving structures in the coastal marine area to include certain conditions.

[81] Policy D.5.7 was appealed by the Landowners. During mediation and subsequent discussions, the Landowners confirmed that they would not pursue this appeal point.

#### **Maps – Aquaculture exclusion areas**

[82] The Aquaculture Exclusion Areas map is a map identifying the locations in the General Coastal Zone where adverse effects of aquaculture activities on certain listed areas or activities are unavoidable.

[83] It was appealed by the Landowners: Mataka Residents Association Incorporated sought to retain the AEA maps and Robinia Investments Limited and

Paroa Bay Station sought to retain the Mooring Zone applying to part of Jacks Bay, but to annotate the maps so it is clear that it is also an AEA.

[84] Following mediation and subsequent discussions, the parties agreed to add new policy D.5.2A, which includes a map at Figure x identifying the Bay of Islands Aquaculture Exclusion Area (which excludes Waikare Inlet). As a result, the parties agreed that no other amendments to the AEA map are necessary.

### **Section 32AA**

[85] Section 32AA of the Resource Management Act 1991 (**RMA**) requires a further evaluation for any changes to a proposal since the initial s 32 evaluation report.

[86] In terms of an assessment under section 32AA of the Act, the parties advised that the proposed changes have been negotiated through a strong iterative process, which has sought to maximise the benefits of the provisions and minimise the costs. The parties consider that the proposed changes are the most appropriate way to achieve the objectives of the Proposed Plan as well as give effect to the relevant higher-order documents including the RPS and NZCPS.

### **Evaluation**

[87] This is a situation similar to those that the Court has considered in other decisions relating to the impact of the National Policy Statement for Freshwater Management 2020 (NPS-FM), the National Environmental Standards for Freshwater (NES-F) and the Resource Management (Stock Exclusion) Regulations 2020 (SER).<sup>12</sup>

[88] The problem that arises for the Court in such situations is that the government provisions have occurred well after the notification of the plan, the submission process and the decisions of the Council. In relation to the proposed Northland

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<sup>12</sup> *Minister of Conservation v Northland Regional Council* [2021] NZEnvC 1; *Minister of Conservation v Northland Regional Council* [2021] NZEnvC 77; *Federated Farmers of New Zealand v Northland Regional Council* [2022] NZEnvC 16; *Mangawhai Harbour Restoration Society Incorporated v Northland Regional Council* [2022] NZEnvC 114.

Regional Plan, these documents were notified during the time that the Court was hearing appeals and interrupted by the COVID-19 lockdowns.<sup>13</sup>

[89] The Plan had not been prepared in contemplation of the provisions and therefore we did not understand the Court to be given powers beyond the terms of the appeal to retrofit the proposed Plan to meet requirements that came into existence after the plan promulgation.

[90] It is the Councils role to introduce changes required in the regulations or policy. The Court should have regard to the provisions and wherever possible try and ensure that there are practicable and workable outcomes that will not conflict or be immediately overcome by the adoption of the new provisions.

[91] The solution adopted in the interim by the Council has been to include in the proposed plan a statement as follows:

A rule in this Plan prevails over a standard in the NES-F if it is more stringent than a standard. A standard in the NES-F prevails over a rule in this Plan if it is more stringent than the rule.

[92] The notation can be a useful method of incorporating regulatory provisions so that the parties can properly take notice of regulatory changes, particularly where they override Plan provisions.

[93] In this particular case, the Court has not been asked to make an evaluative decision as between evidence of the parties. The parties have agreed that the provisions overall are ones within the scope of the appeals, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2.

### **Consideration**

[94] Given the breadth of the issues and the range of parties, I have concluded that the outcome represents a balance of principle and pragmatism given the supervening regulatory changes. I am also satisfied that they do not create a conflict with the regulatory provisions.

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<sup>13</sup> *Bay of Islands Maritime Park Incorporated v Northland Regional Council* [2021] NZEnvC 6, (2021) 22 ELRNZ 419, [2021] NZRMA 256; *Mangawhai Harbour Restoration Society Incorporated v Northland Regional Council* [2022] NZEnvC 114.



[95] It is difficult for the Court to undertake a full evaluation of the issues raised in the absence of evidence. We rely on counsel and the parties to evaluate these matters, particularly in light of the topics that the Court has issued decisions on and the commonality of many of the counsel, particularly for the Regional Council.

[96] One area of distinction from the earlier decisions on the pNRP is the status of activities that have previously held a consent.

- (a) it stands in distinction to provisions such as those in Topic 15 – Mangrove removal, where the Court concluded that no particular status should be given for previous consents.<sup>14</sup>
- (b) the provisions the parties have now agreed on Topic 1A deal with re consenting aquaculture, realignment of existing aquaculture, extensions to authorised aquaculture as well as new aquaculture.

[97] The regulatory provisions for aquaculture do give some status to existing activities when it comes to time for renewal. This is essentially reflected in the provisions that the parties have now been agreed. The NES-MA regulates the **replacement** of coastal permits for existing marine farms.

[98] NES-MA provides that rules in regional plans may be more stringent than NES-MA in some cases or more lenient in others. The parties have assured the Court that these pNRP amendments do not duplicate or create conflict with the NES-MA. The focus of the parties amendments is not on the activity status but on the relevant mapped areas, matters of control, removing conflict with the NES-MA and other wording changes. Policies D.5.1 and D.5.2 of the Proposed Plan recognise the benefits of existing aquaculture and provide for the continued operation of existing aquaculture activities.

[99] It is noted that several of the parties were concerned about the possible establishment of aquaculture and activities that they did not consider as appropriate. These issues are not pursued in these agreed provisions. We understand this is based upon the whole of the resolution before the Court. I am satisfied that this position

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<sup>14</sup> *Mangabhai Harbour Restoration Society Incorporated v Northland Regional Council* [2022] NZEnvC 114 at [122].

has not occurred due to any form of coercion but is, rather, a measured and balanced approach where certain provisions meet key concerns, and the risks of others is considered acceptable.

[100] Again, it is not possible for the Court to evaluate this balance in detail given the matter has not proceeded to hearing before the Court. What we do understand is that the parties have carefully considered their position and consider that the overall package of provisions meet their concerns. Again, the Council are clearly seeking balanced and workable provisions and have endorsed these arrangements and consider them to be appropriate, given the circumstances.

[101] As we have previously said, all parties have been placed in a particularly difficult position because of the promulgation of the regulations during the period in which the plan was proceeding. The approach that the Council might adopt in subsequent actions, if any are required under the regulations, is a matter which needs to be examined in due course. Accordingly, I am satisfied that the orders as sought can be made.

[102] The Court is making this order under section 279(1) of the Act, such order being by consent, rather than representing a decision or determination on the merits pursuant to section 297. The Court understands for present purposes that:

- (a) all parties to the proceedings have executed the memorandum requesting this order;
- (b) all parties are satisfied that all matters proposed for the Court's endorsement fall within the Court's jurisdiction, and conform to the relevant requirements and objectives of the Act including, in particular, Part 2;
- (c) all parties are satisfied that the amendments do not duplicate or create conflict with the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020.

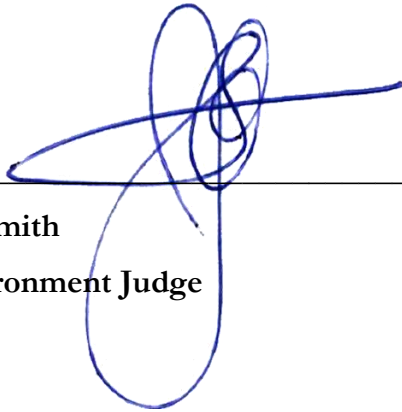
**Orders**

[103] Therefore the Court orders, by consent, that the Proposed Regional Plan for Northland be amended as set out in **Annexure A** to this order.

[104] This order resolves the provisions set out in paragraph [2] above.

[105] No appeal points remain outstanding in Topic 1A – Aquaculture. Topic 1A is closed.

[106] There is no order as to costs.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

**J A Smith**  
**Environment Judge**



## ANNEXURE A: AMENDMENTS TO THE PROPOSED PLAN

### Key:

- Underlined or strike through = changes agreed by the parties.
- Green shaded text (underlined or strike through) = changes agreed to remove conflict between the Proposed Plan and NES-MA.

## C.1.3 Aquaculture

### **Note:**

1. The rules in section C.1.1 General Structures do not apply to aquaculture activities, with the exception of Rule C.1.1.7 Reconstruction, replacement, maintenance or repair of a structure permitted activity and Rule C.1.1.10 Removal or demolition of structures permitted activity.
2. The Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 (NESMA) may also apply to existing aquaculture.
3. Re-consenting of finfish aquaculture is not covered by a rule in this section – refer Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020

### C.1.3.1 Re-consenting aquaculture (not finfish) – controlled activity

An application for a new coastal permit to replace a coastal permit for the occupation of the common marine and coastal area for the purposes of an aquaculture activity ~~to replace a coastal permit,~~ and any associated erection or placement of structures is a controlled activity, provided:

- 1) it is not finfish aquaculture, and
- 2) no part of the area of occupation is in a mapped (refer I Maps | Ngā mahere matawhenua):
  - a) Significant Ecological Area, or
  - b) Outstanding Natural Feature, or
  - c) Area of Outstanding Natural Character, or
  - d) Site or Area of Significance to tangata whenua, ~~and or~~
  - e) Outstanding Natural Landscape
- 3) there is an existing coastal permit for the aquaculture activity, or a coastal permit for the aquaculture activity existed less than one year before the date the application is made ~~the application is made before the one year anniversary of the coastal permit for the aquaculture activity expiring or lapsing,~~ and

- 4) there is no change to the activities as authorised by the existing, expired or lapsed coastal permit (other than a decrease in the area of occupation).

**Matters of control:**

- 1) Measures to ~~minimise~~ manage ~~adverse~~ effects on reefs and biogenic habitats within the footprint of the structure and:
  - a) 20 metres around the footprint of the surface structures of an inter-tidal marine farm; or
  - b) 20 metres from the boundary of the consented area of a sub-tidal marine farm.
- 2) Management practices to minimise marine mammal and seabird interactions with the marine farm, including entanglement  
Management practices to minimise adverse interactions between marine mammals or seabirds and the marine farm, including entanglements, injury, and mortality.
- 3) The management of biosecurity risks ~~of introducing or spreading marine pests.~~
- 4) The management of the effects on the environment of noise, rubbish, and debris.
- 5) Integrity and security of the structure.
- 6) Navigation safety, including the provision of navigation warning devices and signs in accordance with maritime transport legislation.  
The layout, colour, positioning, density, lighting, and marking of marine farm structures within a marine farm, for the purpose of ensuring—
  - a) continued reasonable public access (including recreational access) in the vicinity of the marine farm; and
  - b) navigational safety, including the provision of navigation warning devices and signs; and
  - c) with respect to colour, the visibility and coherent appearance of marine farm structures
- 7) The need to upgrade, replace or remove any derelict or disused structures.
- 8) The mechanism to recover the full cost of the repair or removal of abandoned or derelict farms and reinstatement of the environment.
- 9) Effects associated with the operation of the marine farm on public facilities and infrastructure.
- 10) When occupation is authorised in relation to seasonal activities such as spat catching:

**Notification:**

Resource consent applications under this rule are precluded from public and limited notification.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Any erection or placement of structures for aquaculture activities in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any deposition of shell and other biota onto the foreshore or seabed incidental to the activity (s12(1)).

- ~~Deposition of shell and other biota onto the foreshore or seabed incidental to the activity (s12(1)).~~
- Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).
- Discharges of sediment or water into water incidental to the activity (s15(1)).

### C.1.3.2 Re-consenting aquaculture (not finfish) in a significant area – restricted discretionary activity

~~From 1 January 2020, An application for a new coastal permit to replace a coastal permit for the occupation of the common marine and coastal area for the purposes of an aquaculture activity, and any associated erection or placement of structures, to replace a coastal permit in a mapped (refer | Maps | Ngā mahere matawhenua):~~

- 1) Significant Ecological Area, or
- 2) Outstanding Natural Feature, or
- 3) Area of Outstanding Natural Character, or
- 4) Site or Area of Significance to tangata whenua, or
- 4a) Outstanding Natural Landscape

is a restricted discretionary activity, provided:

- 5) it is not finfish aquaculture, and
- 6) there is an existing coastal permit for the aquaculture activity, or a coastal permit for the aquaculture activity existed less than one year before the date the application is made ~~the application is made before the one year anniversary of the coastal permit for the aquaculture activity expiring or lapsing, and~~
- 7) the area to be occupied is the same as, or less than, the area authorised by the ~~there is no change to the activities as authorised by the existing, expired or lapsed coastal permit (other than a decrease in the area of occupation), and~~
- 8) the application is for a marine farm on the same site as authorised by the existing, expired or lapsed coastal permit, and
- 9) the species to be farmed are only those authorised by the existing, expired or lapsed coastal permit, and
- 10) the structures and anchoring systems are to be the same as, or similar to, those authorised by the existing, expired or lapsed coastal permit, including in height, reflectivity, and bulk (but not including in colour).

#### Matters of discretion:

- 2) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer | Maps | Ngā mahere matawhenua) places outstanding or significant:
  - a) Areas of Outstanding Natural Character.

- b) Outstanding Natural Features.
  - c) Significant Ecological Areas.
  - d) Sites and Areas of Significance to tangata whenua.
  - e) Outstanding Natural Landscapes.
- 3) Effects on reefs and biogenic habitat—Effects of the activity on reefs, biogenic habitat, and regionally significant benthic species within the footprint of the structure and:
- a) 20 metres around the footprint of the surface structures of an inter-tidal marine farm; or
  - b) 20 metres from the boundary of the consented area of a sub-tidal marine farm.
- 4) Management practices to minimise marine mammal and seabird interactions with the marine farm, including entanglement  
Management practices to minimise adverse interactions between marine mammals or seabirds and the marine farm, including entanglements, injury, and mortality.
- 5) The risk of introducing or spreading marine pests—The management of biosecurity risks.
- 6) Noise. The management of the effects on the environment of noise, rubbish, and debris.
- 7) Integrity and security of the structure.
- 8) Navigation safety, including the provision of navigation warning devices and signs in accordance with maritime transport legislation.  
The layout, colour, positioning, density, lighting, and marking of marine farm structures within a marine farm, for the purpose of ensuring—
- a) continued reasonable public access (including recreational access) in the vicinity of the marine farm; and
  - b) navigational safety, including the provision of navigation warning devices and signs; and
  - c) with respect to colour, the visibility and coherent appearance of marine farm structures
- 9) The need to upgrade, replace or remove any derelict or disused structures.
- 10) The mechanism to recover the full cost of the repair or removal of abandoned or derelict farms and reinstatement of the environment. Bonds or any alternative measures to recover the cost of repairing or removing abandoned or derelict structures and reinstating the environment.
- 11) Effects associated with the operation of the marine farm on public facilities and infrastructure.
- 12) The positive effects of the aquaculture.
- 13) The value of the investment in the existing aquaculture activity.
- 14) When occupation is authorised in relation to seasonal activities

**Notification:**

Resource consent applications under this rule are precluded from public and limited notification.

**Note:**

~~This rule does not come into effect until 1 January 2020. Up until this date the relevant rules for re-consenting existing aquaculture activities (not including finfish aquaculture) are as set out in the Regional Coastal Plan for Northland.~~

**For the avoidance of doubt this rule covers the following RMA activities:**

- Any erection or placement of structures for aquaculture activities in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any deposition of shell and other biota onto the foreshore or seabed incidental to the activity (s12(1)).
- ~~Deposition of shell and other biota onto the foreshore or seabed incidental to the activity (s12(1)).~~
- Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).
- Discharges of sediment or water into water incidental to the activity (s15(1)).

### C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity

The realignment of an area occupied by an **authorised** aquaculture activity in the common marine and coastal area, the associated erection or placement of a structure, and any associated discharge, are restricted discretionary activities, provided:

- 1) no part of the existing **authorised** area has been realigned in the last five years, and
- 2) there is no increase in the **authorised** area, and
- 3) a minimum of two-thirds ( $\frac{2}{3}$ ) of the existing **authorised** area remains, and
- 4) the new area is no more than one-third ( $\frac{1}{3}$ ) of the existing **authorised** area, and
- 5) the new area is contiguous to the existing **authorised** area, and
- 6) the aquaculture activity in the new area is the same as that approved for the existing **authorised** area.

**Matters of discretion:**

- 1) Effects on the characteristics, qualities and values that contribute to make any of the following mapped (refer I Maps | Ngā mahere matawhenua) places outstanding or significant:
  - a) Areas of Outstanding Natural Character.
  - b) Outstanding Natural Features.
  - c) Significant Ecological Areas.
  - d) Sites and Areas of Significance to tangata whenua.



- e) Regionally Significant Anchorages.
  - f) Outstanding Natural Landscape.
- 2) Effects on reefs and biogenic habitat Effects of the activity on reefs, biogenic habitat, and regionally significant benthic species within the footprint of the structure and:
    - a) 20 metres around the footprint of the surface structures of an inter-tidal marine farm; or
    - b) 20 metres from the boundary of the consented area of a sub-tidal marine farm.
  - 3) Management practices to minimise marine mammal and seabird interactions with the marine farm, including entanglement  
Management practices to minimise adverse interactions between marine mammals or seabirds and the marine farm, including entanglements, injury, and mortality.
  - 4) The risk of introducing or spreading marine pests. The management of biosecurity risks.
  - 5) Noise. The management of the effects on the environment of noise, rubbish, and debris.
  - 6) Integrity and security of the structure.
  - 7) Navigation safety, including the provision of navigation warning devices and signs in accordance with maritime transport legislation.  
The layout, colour, positioning, density, lighting, and marking of marine farm structures within a marine farm, for the purpose of ensuring—
    - a) continued reasonable public access (including recreational access) in the vicinity of the marine farm; and
    - b) navigational safety, including the provision of navigation warning devices and signs; and
    - c) with respect to colour, the visibility and coherent appearance of marine farm structures;
  - 8) Effects on existing recreational activities.
  - 9) The need to upgrade, replace or remove any derelict or disused structures.
  - 10) The mechanism to recover the full cost of the repair or removal of abandoned or derelict farms and reinstatement of the environment. Bonds or any alternative measures to recover the cost of repairing or removing abandoned or derelict structures and reinstating the environment.
  - 11) Effects on historic heritage in the coastal marine area.
  - 12) Effects associated with the realignment and operation of the marine farm on public facilities and infrastructure.
  - 13) The positive effects of the activity.
  - 14) The value of the investment in the existing aquaculture activity.

**Note:**

*This rule does not override the circumstances or scope for changing resource consent conditions under Section 127 (RMA) for the area of occupation.*

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of the realigned structures in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of a substance onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).
- Discharges of a contaminant (including feed) or water into water (s15(1)).

### C.1.3.4 Extensions to authorised aquaculture – restricted discretionary activity

An extension to the area that an aquaculture activity is **authorised** to occupy in the common marine and coastal area, the associated erection or placement structures and any associated discharge, are restricted discretionary activities, provided:

- 1) the new area is less than 25 percent of the existing **authorised** area, and
- 2) no part of the existing **authorised** area has been **authorised** in the last five years, and
- 3) the new area is contiguous to the existing **authorised** area, and
- 4) the aquaculture activity in the new area is the same as that approved for the existing **authorised** area, and
- 5) no part of the area of occupation is in a mapped (refer I Maps |Ngā mahere matawhenua):
  - a) Aquaculture Exclusion Area, or
  - b) Significant Ecological Area, or
  - c) Outstanding Natural Feature, or
  - d) Area of Outstanding Natural Character, or
  - e) **Historic Heritage Area**, or
  - f) Regionally Significant Anchorage, or
  - g) **Mooring Zone**, or
  - h) Coastal Commercial Zone, or
  - i) Site or Area of Significance to tangata whenua, or
  - j) Outstanding natural landscape

**Matters of discretion:**

- 1) Effects on the characteristics, qualities and values that contribute to make any of the following adjacent mapped (refer I Maps |Ngā mahere matawhenua) places outstanding or significant:
  - a) Areas of Outstanding Natural Character.
  - b) Outstanding Natural Features.
  - c) Significant Ecological Areas.
  - d) Sites and Areas of Significance to Tangata whenua.

- e) Regionally Significant Anchorages
  - f) Outstanding Natural Landscape.
- 2) Effects on the characteristics, qualities and values that contribute to any mapped (refer I Maps | Ngā mahere matawhenua) [Historic Heritage Area](#).
  - 3) Effects on reefs and [biogenic habitat](#).
  - 4) Effects on food (plankton) availability in the water.
  - 5) The risk of introducing or spreading [marine pests](#).
  - 6) Adverse effects on marine mammals and seabirds, including minimising interactions with the marine farm, such as including entanglement.
  - 7) Noise.
  - 8) Integrity of the [structure](#).
  - 9) Navigation safety, including the provision of navigation warning devices and signs in accordance with maritime transport legislation.
  - 10) Effects on existing recreational activities.
  - 11) The need to upgrade, replace or remove any derelict or disused [structures](#).
  - 12) The mechanism to recover the full cost of the repair or removal of abandoned or derelict farms and reinstatement of the environment.
  - 13) Effects associated with the extension and operation of the marine farm on public facilities and infrastructure.
  - 14) The positive effects of the activity.
  - 15) The value of the investment in the existing aquaculture activity.
  - 16) For an aquaculture activity within the Bay of Islands Aquaculture Exclusion Area referred to in Policy D.5.2A, effects on the characteristics, qualities and values that contribute to mapped (refer I Maps | Ngā mahere matawhenua) Areas of High Natural Character.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of the extended [structure](#) in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of a substance onto the foreshore or seabed (s12(1))
- Deposition onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water into water (s15(1)).

### ~~C.1.3.5 Re-consenting finfish aquaculture discretionary activity~~

~~An application for a new coastal permit to replace a coastal permit for the occupation of the common marine and coastal area for the purposes of a finfish aquaculture activity,~~

~~any the associated erection or placement of structures and any associated discharge, are discretionary activities, provided:~~

- ~~1) the application is made within one year of the coastal permit for the aquaculture activity expiring or lapsing, and~~
- ~~2) there is no change to the activities authorised by the existing, expired or lapsed coastal permit (other than a decrease in the area of occupation).~~

~~For the avoidance of doubt this rule covers the following RMA activities:~~

- ~~• Any erection or placement of structures for finfish aquaculture activities in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).~~
- ~~• Deposition of a substance onto the foreshore or seabed incidental to the activity (s12(1)).~~
- ~~• Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).~~
- ~~• Discharge of a contaminant (including feed) or water into water associated with the aquaculture activities (s15(1)).~~

### C.1.3.6 Aquaculture outside significant areas and development zones – discretionary activity

The erection or placement of structures in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharges, that are not controlled or restricted discretionary activities in section C.1.3 of this Plan are discretionary activities, provided the area of occupation is not in a mapped (refer I Maps | Ngā mahere matawhenua),

- 1) Aquaculture Exclusion Area, or
- 2) Significant Ecological Area, or
- 3) Outstanding Natural Feature, or
- 4) Area of Outstanding Natural Character, or
- 5) [Historic Heritage Area](#), or
- 6) Regionally Significant Anchorage, or
- 7) [Mooring Zone](#), or
- 8) Coastal Commercial Zone, or
- 9) Site or Area of Significance to tangata whenua, or
- 10) Outstanding Natural Landscape

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of [structures](#) for aquaculture activities in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).

- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

### C.1.3.7 New aquaculture in an authorised area – discretionary activity

New aquaculture activities in an area aquaculture activities are **authorised** to occupy in the common marine and coastal area, including a change of species or farming method, the erection or placement of structures and any associated discharge of contaminants, **that are not restricted discretionary activities under the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020,** are discretionary activities.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of **structures** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- A change of species or farming method in an area aquaculture activities are **authorised** to occupy in the common marine and coastal area (12(3)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

### C.1.3.9 Extensions to existing aquaculture in significant areas and development zones - discretionary activity

An extension to an area aquaculture activities are **authorised** to occupy in the common marine and coastal area, the associated erection or placement structures, and any associated discharges, in a mapped (refer I Maps | Ngā mahere matawhenua):

- 1) Aquaculture Exclusion Area, or
- 2) Significant Ecological Area, or
- 3) Outstanding Natural Feature, or
- 4) Area of Outstanding Natural Character, or
- 5) **Historic Heritage Area**, or
- 6) Regionally Significant Anchorage, or
- 7) **Mooring Zone**, or
- 8) Coastal Commercial Zone, or

9) Site or Area of Significance to tangata whenua, or

9a) Outstanding Natural Landscape

are discretionary activities, provided:

10) the new area is less than 25 percent of the existing **authorised** area, and

11) no part of the existing **authorised** area has been **authorised** in the last five years, and

12) the new area is contiguous to the existing **authorised** area, and

13) the aquaculture activity in the new area is the same as that approved for the existing **authorised** area.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of the extended **structures** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water into water associated with the aquaculture activities (s15(1)).

### C.1.3.10 Marae-based aquaculture in significant areas and development zones – discretionary activity

The erection or placement of structures in the coastal marine area, any occupation of the common marine and coastal area for the purposes of **marae-based aquaculture**, and any associated discharges in a mapped (refer I Maps | Ngā mahere matawhenua):

- 1) Aquaculture Exclusion Area, or
- 2) Significant Ecological Area, or
- 3) Outstanding Natural Feature, or
- 4) Area of Outstanding Natural Character, or
- 5) **Historic Heritage Area**, or
- 6) Regionally Significant Anchorage, or
- 7) **Mooring Zone**, or
- 8) Coastal Commercial Zone, or
- 9) Outstanding Natural Landscape

are discretionary activities.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of the extended **structures** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).

- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

### C.1.3.11 Relocation of aquaculture within the Waikare Inlet and ~~Pārengarenga Harbour~~ – discretionary activity

The relocation of **authorised** aquaculture activities within the Waikare Inlet ~~and Pārengarenga Harbour~~, including the erection or placement of **structures** in the coastal marine area, any occupation of the common marine and coastal area, and any associated discharges, that is not a:

- 1) restricted discretionary activity under Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity,

are discretionary activities, provided:

- 2) the proposed area to be occupied is no greater than the existing **authorised** area, and
- 3) ~~in the Waikare Inlet~~, the current space approved for occupation and the proposed space to be occupied is east of a line from 1703263mE 6092240mN to 1703003mE 6091467mN (all coordinates in New Zealand Transverse Mercator 2000).

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of ~~the extended~~ **structures** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

### C.1.3.11A Relocation of aquaculture within the Pārengarenga Harbour – Non complying activity

The relocation of **authorised** aquaculture activities within the Pārengarenga Harbour, including the erection or placement of **structures** in the coastal marine area, any occupation of the common marine and coastal area, and any associated discharges, that is not a:

- 1) restricted discretionary activity under Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity,

are non-complying activities, provided the proposed area to be occupied is no greater than the existing **authorised** area,

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of structures in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

### C.1.3.12 Small scale and short duration aquaculture in significant areas and development zones – non-complying activity

The erection or placement of a structure in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge, in a mapped (refer | Maps | Ngā mahere matawhenua):

- 1) Aquaculture Exclusion Area, or
- 2) Significant Ecological Area, or
- 3) Outstanding Natural Feature, or
- 4) Area of Outstanding Natural Character, or
- 5) **Historic Heritage Area**, or
- 6) Regionally Significant Anchorage, or
- 6A) Recognised Recreational Anchorages, or
- 6B) Outstanding Natural Landscape, or
- 7) **Mooring Zone**, or
- 8) Coastal Commercial Zone, or
- 9) Site or Area of Significance to tangata whenua,

that are not a:

- 10) restricted discretionary activity under Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity, or
- 11) discretionary activity under Rule C.1.3.9 Extensions to existing aquaculture in significant areas and development zones - discretionary activity, or
- 12) discretionary activity under Rule C.1.3.8 Aquaculture in a Māori oyster reserve – discretionary activity, or
- 13) discretionary activity under Rule C.1.3.10 Marae-based aquaculture in significant areas and development zones – discretionary activity,

are non-complying activities, provided:

- 14) the area of occupation (excluding the **anchoring** or **mooring** system) is less than 5000 square metres, and



- 15) the consent duration applied for is no longer than five years, and
- 16) the area of occupation has not been **authorised** for aquaculture activities any time in the five years' preceding the time the Council receives the application under this rule, and
- 17) no part of the area of occupation is within 200 metres of an existing area **authorised** for aquaculture activities.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of a **structure** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of a substance onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).
- Discharge of a contaminants (including feed) or water into water associated with the aquaculture activity (s15(1)).

### C.1.3.13 Aquaculture in a Significant Ecological Area in the Kaipara Harbour – non-complying activity

The erection or placement of a **structure** in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge, in a mapped Significant Ecological Area in the Kaipara Harbour (refer I Maps | Ngā mahere matawhenua) that is not a:

- 1) restricted discretionary activity under Rule C.1.3.3 Realignment of existing aquaculture – restricted discretionary activity, or
- 2) discretionary activity under Rule C.1.3.9 Extensions to existing aquaculture in significant areas and development zones - discretionary activity, or
- 3) discretionary activity under Rule C.1.3.8 Aquaculture in a Māori oyster reserve – discretionary activity, or
- 4) discretionary activity under Rule C.1.3.10 Marae-based aquaculture in significant areas and development zones – discretionary activity,

are non-complying activities, provided:

- 5) the proposed area of occupation is north of a line from 1795913mE 5975589mN to 1707171mE 5976685mN to 1708783mE 5976638mN (all coordinates in New Zealand Transverse Mercator 2000).

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of a **structure** in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of a substance onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area by the aquaculture activity (s12(2)).
- Discharge of a contaminant (including feed) or water into water associated with the aquaculture activities (s15(1)).

### C.1.3.14 Aquaculture in significant areas and development zones – prohibited activity

The erection or placement of a [structure](#) in the coastal marine area, any occupation of the common marine and coastal area for the purposes of aquaculture activities, and any associated discharge, in a mapped (refer I Maps | Ngā mahere matawhenua):

- 1) Aquaculture Exclusion Area, or
- 2) Significant Ecological Area, or
- 3) Outstanding Natural Feature, or
- 4) Area of Outstanding Natural Character, or
- 5) [Historic Heritage Area](#), or
- 6) Regionally Significant Anchorage, or
- 7) [Mooring Zone](#), or
- 8) Coastal Commercial Zone, or
- 9) Site or Area of Significance to tangata whenua, or
- 10) Outstanding Natural Landscape,

that is not a restricted discretionary, discretionary or non-complying activity in:

- [section C.1.3 of this Plan](#), or
- [the Resource Management \(National Environmental Standards for Marine Aquaculture\) Regulations 2020](#),

are prohibited activities.

**For the avoidance of doubt this rule covers the following RMA activities:**

- Erection or placement of the [structures](#) in, on, under or over any foreshore or seabed, any incidental disturbance of the foreshore or seabed, and any incidental deposition of substances onto the foreshore or seabed (s12(1)).
- Occupation of the common marine and coastal area with aquaculture activities (s12(2)).
- Discharge of contaminants (including feed) or water to water associated with the aquaculture activities (s15(1)).

## D.5 Coastal

### D.5.1 Aquaculture – benefits

Recognise ~~and enable~~ the significant benefits that existing and new aquaculture can provide to local communities, Māori and the region by providing for aquaculture in appropriate places. Those benefits may include, including:

- 1) social, cultural and economic benefits, including local employment and enhancing Māori development (for example, by involvement in the aquaculture industry), particularly in areas of Northland where alternative opportunities are limited, and
- 2) supplementing natural fish and shellfish stocks by an alternative source of fish and shellfish, and
- 3) providing improved information about water quality, and
- 4) the significant opportunity **marae-based aquaculture** provides for Māori to enhance their well-being (through improving traditional customary kaimoana provision for marae), and
- 5) as a method Māori can use for the management and enhancement of Māori oyster reserves (as defined in the Fisheries (Auckland and Kermadec Amateur Fishing) Regulations 1986),

### D.5.2 Aquaculture – existing activities, realignment, extensions, and small scale short duration activities

Subject to the other relevant policies in D.1, D.2 and D.5 of this Plan ~~D.5.5, D.5.6, and D.5.7~~ provide for ~~and enable:~~

- (a) the continued operation of existing aquaculture activities (including their realignment), and
  - (b) the extension—of existing aquaculture activities (except in the areas addressed in D.5.2A), and
  - (c) ~~and for~~ small scale short duration aquaculture research trials and experimental aquaculture activities (except in the areas addressed in D.5.2A). ~~provided that:~~
- 1) ~~potential adverse effects listed in D.5.3 and significant adverse effects D.5.4 are avoided, and~~
  - 2) ~~adverse effects on the characteristics, qualities and values that contribute to the identified values of the following areas identified in the Plan's I Maps | Ngā mahere matawhenua are managed in accordance with the relevant policies in D.1, D.2 and D.5 of this Plan:~~
    - a) ~~Significant Ecological Areas, or~~
    - b) ~~Significant Bird Areas, or~~

- ~~c) Outstanding Natural Features, or~~
- ~~d) Areas of Outstanding Natural Character, or~~
- ~~e) Regionally Significant Anchorages, or~~
- ~~f) Mooring Zones, or~~
- ~~g) Coastal Commercial Zones, or~~
- ~~h) Nationally or Regionally Significant Surf Breaks, or~~
- ~~i) Sites or Areas of Significance to tangata whenua, or~~
- ~~j) Historic Heritage Sites or Areas,~~

## D.5.2A Aquaculture in the Bay of Islands Aquaculture Exclusion Area

In the Bay of Islands Aquaculture Exclusion Area:

- 1) New aquaculture activities are not appropriate (except for any activity within the scope of NESMA Part 4, and except for any activity within the scope of rule C.1.3.7 where that activity will result in a net environmental improvement) and
- 2) Extensions and small scale short duration research trials and experimental aquaculture activities are generally inappropriate unless:
  - a) the policies in D.1, D.2 and D.5 are met, and
  - b) There are no practicable alternative locations for the aquaculture activity; and
  - c) For extensions, the existing authorised aquaculture activity is fully developed or will be following the proposed extension;
  - d) For small scale short duration research trials and experimental aquaculture activities:
    - i) All adverse effects of the activity will be reversible based on best available science; and
    - ii) The area will be rehabilitated and/or returned to its original state (as appropriate) within 1 year of the consent expiry.

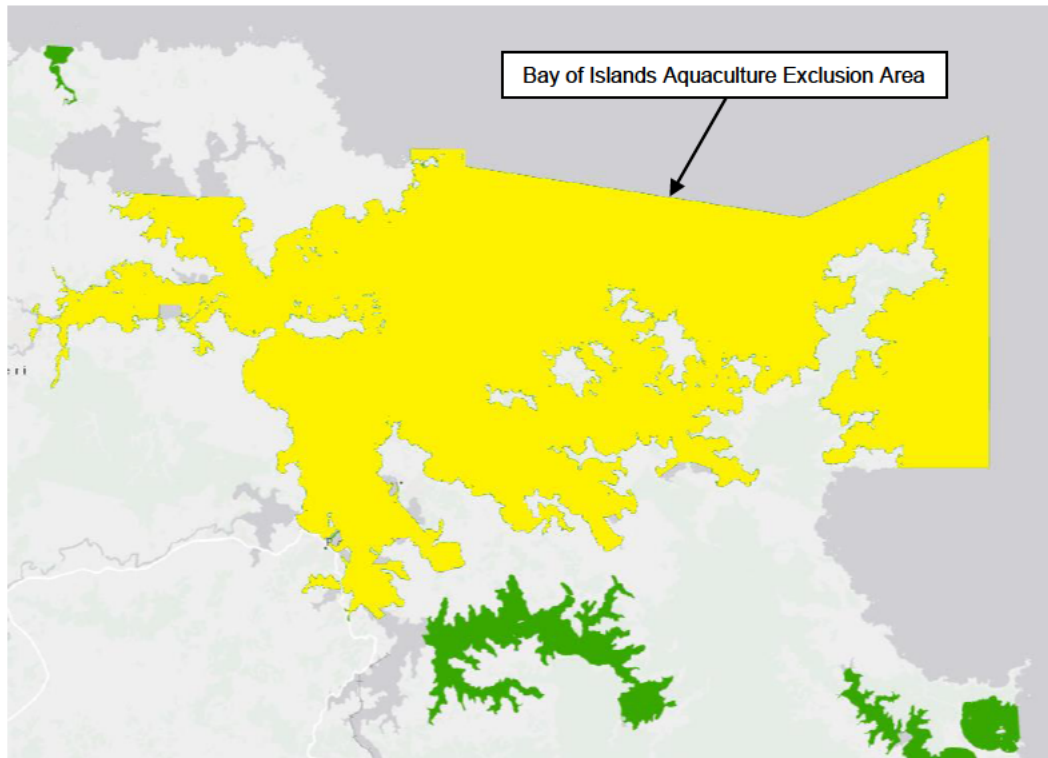


Figure x: This map shows the Bay of Islands Aquaculture Exclusion Area in yellow. The Bay of Islands Aquaculture Exclusion Area and other Aquaculture Exclusion Areas can also be viewed at I Maps | Ngā mahere matawhenua.

### D.5.3 Aquaculture – avoid adverse effects

In addition to any other requirement to avoid adverse effects, aquaculture activities must avoid adverse effects (after taking into account any remediation or mitigation) on:

- 1) areas of the coastal marine area where a marine reserve has been established or publicly notified under the Marine Reserves Act 1971, and
- 2) residential activities in significant **urban areas** provided for in operative district plans, which are existing at 1 September 2017, **authorised** by unexercised resource consents, or enabled by operative district plan provisions having permitted, controlled, restricted discretionary or discretionary activity status, and
- 3) significant tourism or recreation areas, and
- 4) **recognised navigational routes**, and
- 5) **Regionally Significant Anchorages** ~~anchorages referred to in cruising guides, pilot books and similar publications as being suitable for shelter in adverse weather, and~~
- 6) port or harbour approaches, and
- 7) existing aquaculture (either because there is no or limited space, or the area is at its production or ecological carrying capacity), and
- 8) the use and functioning of existing coastal **structures** including jetties, wharves, boat ramps underwater pipes, and underwater cables, and
- 9) defence exercise areas, and
- 10) access lanes, as referred to by the Navigation Safety Bylaw, and
- 11) the management purpose or objectives of:

- a) [tāiapure](#) or [mataitai](#), and
- b) areas for which fisheries restriction methods have been established under the Fisheries Act 1996 and regulations, including any Māori Oyster Reserve or set netting ban, and
- c) protected customary rights and customary marine titles issued under the Marine and Coastal Area (Takutai Moana) Act 2011, and
- d) wildlife refuges established under the Wildlife Act 1953, and
- e) areas of the coastal marine area where a Marine Mammal Sanctuary has been established or publicly notified under the Marine Mammals Protection Act 1977, and
- f) areas of the coastal marine area where a Ramsar site has been established or publicly notified under the Ramsar Convention 1971,<sup>12</sup> and
- g) any marine park established by or through statutory or regulatory processes, and

12) [Mooring Zones](#).

## D.5.4 Aquaculture – avoid significant adverse effects

In addition to any other requirement to avoid significant adverse effects, aquaculture activities should avoid significant adverse effects and avoid, remedy or mitigate other effects on:

- 1) the integrity, functioning and resilience of coastal processes and ecosystems, and
- 2) public access to and along the coast, ~~and~~
- 3) use or functioning of coastal reserves and conservation areas, and
- 4) [Recognised Recreational Anchorages](#)

## D.5.5 Aquaculture – general matters

New aquaculture activities should:

- 1) be located in areas that have suitable access, and where they can be supported by adequate and appropriate land-based infrastructure, facilities and operations where required, and
- 2) not be considered within any part of the coastal marine area deemed unsuitable under the relevant regulations or standards for the growing or harvesting of shellfish, where the aquaculture is for the purpose of directly harvesting shellfish for human consumption, and
- 3) be located, maintained, marked and lit in a way which does not compromise the safety of commercial or recreational navigation.

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<sup>12</sup>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.

## ~~D.5.6 Aquaculture staged development~~

~~New aquaculture activities may be required to be developed and monitored in a staged manner where the potential adverse effects cannot adequately be predicted and may be significant.~~

## D.5.7 Aquaculture – abandoned or derelict farms

Coastal permits for aquaculture activities involving **structures** in the coastal marine area must include conditions requiring:

- 1) the repair or removal of **structures** that have been abandoned or have fallen into a state of disrepair, and either
- 2) a bond to cover the actual and reasonable 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, or
- 3) an alternative surety that reflects the reasonable:
  - a) likelihood of **structures** being abandoned or falling into a state of disrepair, and
  - b) 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.

# I Maps | Ngā mahere matawhenua

<i>Aquaculture exclusion areas</i>	<p>The combination of locations in the General Coastal Zone where adverse effects of aquaculture activities on the following are unavoidable, and which are not already mapped in the Plan:</p> <ul style="list-style-type: none"><li>• Residential activities in significant <b>urban areas</b> provided for in operative District Plans, in which activities are existing at 1 September 2017, <b>authorised</b> by un-exercised resource consents, or enabled by operative District Plan provisions having permitted, controlled, restricted discretionary or discretionary activity status;</li><li>• Significant tourism and/or recreation areas;</li><li>• Areas of outstanding natural landscapes (including seascapes);</li><li>• <b>Recognised navigational routes</b>;</li><li>• Anchorages referred to in cruising guides, pilot books or similar publications as being suitable for shelter in adverse weather;</li><li>• Port or harbour approaches; and</li><li>• Existing aquaculture (either because there is no/limited space or the area is at its production or ecological carrying capacity).</li></ul>
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