

House of Representatives

Supplementary Order Paper

Thursday, 4 August 2011

Aquaculture Legislation Amendment Bill (No 3)

Proposed amendments

Hon Phil Heatley, in Committee, to move the following amendments:

Clause 2

Subclause (1AA): to insert before *subclause (1)* (before line 5 on page 10) the following subclause:

“(1AA) **Section 52(2)** comes into force on the day on which this Act receives the Royal assent.

Subclause (1): to omit “**69(3)**” (line 5 on page 10) and substitute “**69**”.

Subclause (2): to omit “July” (line 7 on page 10) and substitute “October”.

Clause 9A: new section 20A

Subsection (3)(b): to add “; and” (line 7 on page 17).

Subsection (3): to add the following paragraph after *paragraph (b)* (after line 7 on page 17):

“(c) as expiring on 31 December 2033.

Subsection (7): to insert after “section 128” (line 31 on page 17) “(other than subsection (1)(c))”.

Clause 12

To add the following subclause as *subclause (2)* (after line 20 on page 19):

(2) Section 25 is amended by adding the following subsection:

“(8) A coastal permit granted to a person who has made an application referred to in subsection (3), and that is for the same space and activity as a coastal permit or certificate of compliance referred to in subsection (2), is not invalid because the application in respect of which the coastal permit was granted did not comply with section 12A(1A) of the Resource Management Act 1991 as in force at the time the permit was granted.”

Clause 13

New section 25A(12): to insert after “after” (line 35 on page 21) “the public notification of”.

New section 25B(2)(f): to add (line 4 on page 23) “, including any structures authorised before the introduction of any relevant stock to the quota management system”.

Clause 14(2)

New section 26(5)(a): to omit “that was granted before the commencement of this Act” (lines 16 and 17 on page 23).

New section 26(8) and (9): to add the following subsections after *subsection (7)* (after line 32 on page 23):

“(8) In subsections (1)(a) and (5), **coastal permit to occupy a coastal marine area for the purpose of marine farming or spat catching** means—

“(a) a coastal permit to occupy space in the coastal marine area for the purpose of marine farming or spat catching that was in force at the commencement of this Act; or

“(b) a coastal permit to occupy the same space on the same terms that was granted by a consent authority before the expiry of the consent referred to in **paragraph (a)**.

“(9) A coastal permit referred to in **subsection (8)(b)** is not invalid because the application in respect of which it was granted did not comply with section 12A(1A) of the Resource Management Act 1991 as in force at the time the permit was granted.

Clause 15

New section 26A(12): to insert after “after” (line 12 on page 26) “the public notification of”.

New section 26B(2)(f): to add (line 21 on page 27) “, including any structures authorised before the introduction of any relevant stock to the quota management system”.

New clauses 19A, 19B, and 19C

To insert the following clauses after *clause 19* (after line 10 on page 29):

19A New section 42 substituted

Section 42 is repealed and the following section substituted:

“42 Aquaculture decisions made after commencement of Part 1 of Aquaculture Legislation Amendment Act (No 3) 2010

“(1) An aquaculture decision made after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010** must be made in accordance with, and subject to, the provisions of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 as amended by **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**.

- “(2) **Subsection (1)** applies—
- “(a) whether the request for the aquaculture decision was made before or after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**; and
 - “(b) whether the aquaculture decision is made as a result of proceedings in relation to an aquaculture decision made before the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**.”

19B Judicial review of aquaculture decision

Section 43 is amended by omitting “3 months” and substituting “30 working days”.

19C New section 43A inserted

The following section is inserted after section 43:

“43A Applications in interim aquaculture management area

- “(1) A person must not apply for a coastal permit to occupy space in an interim aquaculture management area for the purpose of aquaculture activities unless the chief executive has made—
- “(a) a reservation in relation to the space that relates to customary, recreational, or commercial fishing for stocks or species that are not subject to the quota management system; or
 - “(b) a reservation in relation to the space that relates to commercial fishing for stocks that are subject to the quota management system and the space has become a *Gazetted* aquaculture area; or
 - “(c) a reservation in relation to the space that relates to commercial fishing for stocks that are subject to the quota management system and—
 - “(i) the regional council has notified the chief executive that it has completed its allocation of authorisations to the trustee under **sections 44B to 44D** and, if necessary, **section 44E**; and
 - “(ii) the period for filing an aquaculture agreement or a compensation declaration in relation to the space has expired and no aquaculture agreement or compensation declaration has been lodged; or
 - “(d) a determination in relation to the space and the space has become a *Gazetted* aquaculture area.
- “(2) This section does not affect applications made in the interim aquaculture management area before the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**.”

Clause 21

Heading to clause 21: to omit “44N” (line 30 on page 30) and substitute “44O”.

New section 44B(1): to omit “under **section 44(1)**” (line 20 on page 31).

Heading to new section 44M: to omit “to be treated as” (line 30 on page 39) and substitute “become”.

New section 44M(5): to omit “**107F(2)**” (line 17 on page 40) and substitute “**107F(2)(a)**”.

New section 44M: to add the following subsection (after line 18 on page 40):

“(6) This section applies subject to **section 44O**.”

New section 44O: to insert the following section after *new section 44N* (after line 27 on page 41):

“**44O Special provisions in relation to regional coastal plan of Waikato Regional Council**

“(1) This section applies in relation to space in the coastal marine area of the region of the Waikato Regional Council if—

“(a) the space is in an area that is deemed to be a *Gazetted* aquaculture area under **section 44M**; and

“(b) the Waikato Regional Council has not, under section 9(1) of the Maori Commercial Aquaculture Claims Settlement Act 2004 as it was before the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010**, identified 20% of the space for allocation to the trustee.

“(2) Before space becomes available for aquaculture activities, the Waikato Regional Council must comply with **sections 44B to 44D** and, if necessary, **section 44E** in respect of the space and, for that purpose, **sections 44B to 44L** apply—

“(a) with any necessary modifications; and

“(b) as if references to space referred to in **section 44A(1)** were references to the space proposed to become available for aquaculture activities.

“(3) For the purposes of **subsection (2)**, space in a *Gazetted* aquaculture area is to be treated as becoming available for aquaculture activities,—

“(a) if, at the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**, the Waikato Regional Coastal Plan provides for authorisations in relation to aquaculture activities that are to be offered in the space, on the date on which the offer of authorisations is made; or

“(b) if, at the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**, the Waikato Regional Coastal Plan does not provide for aquaculture activities in the space, on the date that a rule that would allow for aquaculture activities to be carried

out in the space in accordance with a coastal permit becomes operative.

Clause 23

New section 47: to add the following subsections after *subsection (4)* (after line 3 on page 44):

- “(5) **Subsections (2) to (4)** are subject to **subsection (6)**.
- “(6) If the application is one that is referred to in **Schedule 3**, the consent authority must not resume processing the application until 1 January 2015 unless—
 - “(a) the applicant requests the consent authority to resume processing the applicant’s application before that date; and
 - “(b) either—
 - “(i) processing of the other applications referred to in **Schedule 3** that were lodged before the applicant’s application has already resumed; or
 - “(ii) any earlier applications, in relation to which processing has not resumed, have been withdrawn.

New section 47B(3A)(c): to omit this paragraph (lines 24 to 34 on page 46) and substitute the following paragraphs:

- “(c) section 36AA and any regulations made under section 360(1)(hj) do not apply in respect of the application:
- “(d) the following periods are excluded from any applicable provision listed in section 88B(2):
 - “(i) if a request for further information under section 92(1) was made before the commencement of this section, the period starting on the day on which the request is made and ending on the earlier of the day on which the information is provided or the day that is 12 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**;
 - “(ii) if a request for further information under section 92(1) is made within 12 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010** and is the first request made after that commencement, the period starting on the day on which the request is made and ending on the earlier of the day on which the information is provided or the day that is 12 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**;
- “(e) if the consent authority requests further information under section 92(1) and the information is provided

within the applicable period specified in **paragraph (d)(i) or (ii)**, section 95 does not prevent the consent authority from notifying the application within 10 working days after the date on which the application would have lapsed under **paragraph (f)** had the applicant not provided the information within the applicable period under **paragraph (d)**:

- “(f) the application lapses if—
 - “(i) the consent authority has requested further information under section 92(1) and the applicant does not comply with the request within 12 months after—
 - “(A) the date of the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**, if the request was made before the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**; or
 - “(B) the date on which the request is made, if the request is the first request made after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**; or
 - “(ii) the consent authority requests subsequent information under section 92(1) within 12 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010** and the applicant does not comply with the request within 10 working days after the expiry of 12 months from the date of the first request made under section 92(1) after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**.

Heading to new section 47D: to omit “**determined**” (line 33 on page 47) and substitute “**finally disposed of**”.

New section 47D(1): to omit “**determined**” (line 1 on page 48) and substitute “**finally disposed of**”.

New section 47D: to add the following subsection (after line 12 on page 48):

- “(3) For the purposes of this section, an application is not finally disposed of until—
 - “(a) the application is determined; and
 - “(b) either—
 - “(i) any appeals from the determination are completed; or

- “(ii) the time for lodging an appeal against the determination has expired.

New section 47F: to insert the following section after *new section 47E* (after line 32 on page 48):

47F Processing of certain applications deferred

- (1) This section applies to an application for a coastal permit for the occupation of space for the purpose of aquaculture activities that is made on or after the date of commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010** and that relates to space that is subject to an application listed in **Schedule 3**.
- (2) A consent authority must not process or determine the application until the time that processing of all the applications referred to in **Schedule 3** has resumed, or the applications have been withdrawn.

Clause 27

New section 50A(12): to insert after “after” (line 17 on page 52) “the public notification of”.

New section 50B(2)(f): to add (line 25 on page 53) “, including any structures authorised before the introduction of any relevant stock to the quota management system”.

New clause 28AA

To insert the following clause after *clause 28* (after line 28 on page 55):

28AA Consent authority may initiate review of off-site farms

Section 54(3) is amended by omitting “53(5)” and substituting “**53(4A)**”.

Clause 30

Heading to clause 30: to omit “**and 2**” (line 19 on page 56) and substitute “, **2, and 3**”.

Subclause (1): to omit “**and 2**” (line 20 on page 56) and substitute “, **2, and 3**”.

Clause 35: new section 186GA(1)(f)

To add (line 38 on page 62) “, including any structures authorised before the introduction of any relevant stock to the quota management system”.

Clause 36

To omit this clause (lines 9 to 27 on page 63) and substitute the following clause:

36 New section 186H substituted

Section 186H is repealed and the following section substituted:

“186H Requirements for aquaculture decision

- “(1) An aquaculture decision must—
- “(a) be in writing; and

- “(b) define the areas that are subject to the decision; and
- “(c) provide reasons for the decision; and
- “(d) be notified to—
 - “(i) the regional council that requested the decision; and
 - “(ii) the holder of the coastal permit that the decision relates to; and
 - “(iii) the persons and organisations who supplied information to the chief executive under **section 186D(1)**; and
 - “(iv) the persons and organisations consulted by the chief executive under **section 186D(3)**.
- “(2) The fact that an aquaculture decision has been made and where a copy can be obtained must be—
 - “(a) notified in the *Gazette*; and
 - “(b) made accessible via the Internet.
- “(3) If the chief executive makes a determination, the determination may—
 - “(a) specify any condition of the coastal permit that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities; and
 - “(b) state that the condition may not be changed or cancelled until the chief executive makes a further aquaculture decision in relation to the area affected by the change or cancellation.
- “(4) If the chief executive makes a reservation, the reservation must also include—
 - “(a) whether the reservation relates to customary, recreational, or commercial fishing, or a combination of them; and
 - “(b) if the reservation relates to commercial fishing, the stocks and areas concerned, specifying any stocks subject to the quota management system and any other stock not subject to the quota management system; and
 - “(c) any other matters required by regulations to be included.
- “(5) The chief executive must include, in the notification under **subsection (1)(d)**,—
 - “(a) the information specified in **subsections (1)(a) to (c), (3), and (4)**, as appropriate; and
 - “(b) information about where a copy of the determination or reservation can be obtained.”

Clause 38(1)

To omit this subclause (lines 31 and 32 on page 63) and substitute the following subclause:

- (1) Section 186J is amended by omitting “3 months after the public notification of the decision” and substituting “30 working days after the notification of the decision under **section 186H(2)(a)**”.

Clause 41: new section 186ZF(4)

To omit “public” (line 18 on page 65).

To omit “section 186H(3)” (line 19 on page 65) and substitute “**section 186H(2)(a)**”.

Clause 43(2)

To omit *new paragraph (b)* (lines 1 to 3 on page 66) and substitute the following paragraph:

- “(b) within 6 months after the notification of the reservation under **section 186H(2)(a)** in relation to the coastal permit concerned.

Clause 45(2)

To omit “public notice under section 186H(3)” (line 25 on page 66) and substitute “notification under **section 186H(2)(a)**”.

Clause 46: new section 186ZM(4)(a)

To omit this paragraph (lines 5 and 6 on page 68) and substitute the following paragraph:

- “(a) to each quota owner of stock that is included in the agreement; and

Clause 50

Subclause (1A): to omit this subclause (lines 4 to 7 on page 70) and substitute the following subclause:

- (1A) Section 4 is amended by inserting the following definitions in their appropriate alphabetical order:

“**anticipated new space** means the amount of space in the coastal marine area that the Minister anticipates will become new space after the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010**

“**aquaculture settlement area** means space in the coastal marine area declared in a *Gazette* notice under **section 12** to be an aquaculture settlement area

“**authorisation** has the same meaning as in **section 165A** of the Resource Management Act 1991

“**iwi** has the same meaning as in the Maori Fisheries Act 2004

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**region** means the region of a regional council or the district of a unitary authority under the Local Government Act 2002”.

Subclause (2): to omit the definition of **new space** (lines 10 to 24 on page 70) and substitute the following definition:

“**new space**—

“(a) means space that, after the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010**, first becomes subject to a coastal permit to occupy the space for the purpose of aquaculture activities; and

“(b) does not include—

“(i) space that is pre-commencement space as defined in section 20; or

“(ii) space in respect of which a regional council is or was required to comply with **sections 44B to 44D** and, if necessary, **section 44E** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or

“(iii) any space that has been transferred to the trustee as a settlement asset before the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010**

New subclause (3): to add the following subclause (after line 24 on page 70):

- (3) Sections 23, 24, 27, 28, 56, 58, and 59 are consequentially amended by omitting “Minister of Fisheries” in each place where it appears and substituting in each case “Minister”.

New clause 51A

To insert the following clause after *clause 51* (after line 28 on page 70):

51A New section 6A inserted

The following section is inserted after section 6:

“**6A Relationship of Act to Marine and Coastal Area (Takutai Moana) Act 2011**

“(1) Nothing done under or for the purposes of this Act is to be treated as a matter that may be taken into account in determining, under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011, whether customary marine title exists in a specified area of the common marine and coastal area.

“(2) Without limiting **subsection (1)**, the provision of authorisations under **section 13** is not to be used—

- “(a) as evidence that an applicant group did not hold a specified area of the common marine and coastal area in accordance with tikanga for the purposes of section 58(1)(a) of the Marine and Coastal Area (Takutai Moana) Act 2011; or
- “(b) as evidence of a substantial interruption of the exclusive use and occupation of a specified area of the common marine and coastal area for the purposes of section 58(1)(b) of the Marine and Coastal Area (Takutai Moana) Act 2011.”

Clause 52 to 53A

To omit these clauses (line 29 on page 70 to line 24 on page 72) and substitute the following clause:

52 New heading and sections 7 to 16A substituted

- (1) The heading above section 7 and sections 7 to 16 are repealed and the following heading and sections substituted:

“Provision and transfer of settlement assets to trustee that are representative of 20% of new space

“**7 Purpose of sections 8 to 18**

The purpose of **sections 8** to 18 is to require the Crown to provide for, and transfer to the trustee, settlement assets that are representative of 20% of the new space.

“**8 Crown’s obligations apply on regional basis**

The Crown’s obligations under **sections 9** to 18 apply and must be satisfied on the basis that they apply separately to each region.

“**9 Crown’s obligations in respect of new space**

- “(1) The Crown must ensure that the trustee is provided with settlement assets that are representative of 20% of the new space by way of 1 or more of the following:

- “(a) the provision of authorisations to apply to occupy space in the coastal marine area for the purpose of aquaculture activities and any payment required by **section 13(4)**;

- “(b) the payment of a financial equivalent of that space;

- “(c) entering into 1 or more regional agreements under **section 10**.

- “(2) The settlement assets provided under **subsection (1)(a)** must be representative of 20% of the anticipated new space.

“**10 Regional agreements relating to new space**

- “(1) The Crown may enter into 1 or more agreements (including by deed) in respect of 1 or more regions if the Crown and the

parties referred to in section 29A(2) all agree that the Crown's obligations under **section 9** will be satisfied in respect of the regions on the terms set out in the agreement or the agreements.

- “(2) Section 29A(3), (4), (6), and (7) apply to an agreement entered into under this section.
- “(3) An agreement under this section may provide for settlement of the Crown's obligations on any basis acceptable to the Crown and the other parties.
- “**11 Settlement in negotiation period**
- “(1) The Crown must use its best endeavours to negotiate and enter into regional agreements under **section 10** that provide for the Crown to meet its obligations under **section 9**.
- “(2) The Crown must do so within the following periods:
- “(a) within 2 years after the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010** for the following:
- “(i) the Northland region:
- “(ii) the east coast of the Waikato region, which is to be treated as a separate region:
- “(iii) the Tasman region:
- “(iv) the Marlborough region:
- “(b) for all other regions, whichever is the later of the following:
- “(i) within 3 years after the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010**; or
- “(ii) within 2 years after the receipt of the first resource consent application for the purpose of aquaculture activities after the commencement of **Part 3 of the Aquaculture Legislation Amendment Act (No 3) 2010** (not being an application to which section 165ZH of the Resource Management Act 1991 applies).
- “(3) The Minister may, by notice in the *Gazette*, extend a period specified in **subsection (2)**.
- “(4) The Minister may not give a notice under **subsection (3)** unless the Minister—
- “(a) has consulted the trustee and the iwi aquaculture organisations, mandated iwi organisations, or recognised iwi organisations with whom the regional agreement under **section 10** is being negotiated; and
- “(b) is satisfied that reasonable steps have been taken to negotiate an agreement and that the proposed extension is likely to enable a regional agreement under **section 10**

in respect of the initial settlement period to be entered into.

- “(5) If, at the conclusion of the relevant period specified in **sub-section (2)** (or any extension), there is no regional agreement under **section 10** that relates to settlement in a region, the Crown must—
- “(a) arrange, in accordance with **section 14**, for authorisations in any relevant aquaculture settlement areas in the region to be provided to the trustee in accordance with **section 9(1)(a)**; but
 - “(b) if insufficient authorisations are available to be provided to the trustee to meet the Crown’s obligations as set out in **section 9**, pay the difference to the trustee in accordance with **section 9(1)(b)**.

“**12** **Gazetting space for settlement purposes**

- “(1) For the purposes of preserving space to be used for meeting the Crown’s obligations under **section 9**, the Minister may, by notice in the *Gazette*, declare space in the coastal marine area to be an aquaculture settlement area that is required to meet the obligations.
- “(2) The Minister—
- “(a) may, by notice in the *Gazette*, add to or remove space from an aquaculture settlement area; and
 - “(b) must, if the Crown’s obligations are settled in respect of a region, remove by, notice in the *Gazette*, the space from an aquaculture settlement area that is not required to meet the obligations.
- “(3) **Section 165C** of the Resource Management Act 1991 applies in respect of applications for coastal permits made in an aquaculture settlement area.
- “(4) In determining whether an aquaculture settlement area will be representative for the purposes of meeting the Crown’s obligations under **section 9**, the Minister must take into account—
- “(a) the suitability of the space for aquaculture activities; and
 - “(b) the overall productive capacity of the anticipated new space available for aquaculture activities in each region.
- “(5) To avoid doubt, the Minister may exercise his or her powers under this section before the preparation of a plan under **section 14**.

“**13** **Allocation of authorisations in aquaculture settlement area**

- “(1) This section applies if the Crown is required, either under a regional agreement under **section 10** or by **section 11(5)**, to

provide authorisations for space in an aquaculture settlement area to the trustee.

- “(2) The Minister must direct the regional council in whose region the relevant aquaculture settlement area is located to provide authorisations for aquaculture activities in the space to the trustee (whether or not the regional coastal plan would otherwise require a different allocation).
- “(3) A regional council must comply with a direction made under **subsection (2)**.
- “(4) As soon as practicable after giving a direction under **subsection (2)**, the Minister must,—
- “(a) if an assessment under **section 14(4)(d)(iv)** shows a difference in value under that provision, consult the trustee about whether a payment of the difference is required; and
- “(b) if the Minister decides that such a payment should be made, make the payment to the trustee.
- “(5) Clause 3(1)(b) of Schedule 1 does not apply to the provision of authorisations under this section.
- “(6) To avoid doubt, **section 165P** of the Resource Management Act 1991 applies in relation to the provision of authorisations under this section.

“**14 Preparation of plan**

- “(1) The Minister must, by 31 December 2012, have started preparing a plan that—
- “(a) provides an assessment of the progress made by the Crown in complying with **section 9**; and
- “(b) to the extent that the Crown has not complied with **section 9**, provides how the Crown is going to comply with that provision; and
- “(c) establishes processes and methods for determining the value of the settlement assets to be delivered under **section 9**.
- “(2) In preparing the plan, the Minister must consult—
- “(a) the trustee; and
- “(b) all iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations—
- “(i) whose area of interest includes a part of the coastal marine area; and
- “(ii) in relation to which the Crown has not, by 31 December 2012, satisfied its obligations under this Act.
- “(3) As soon as practicable after completing the plan, the Minister must provide copies to the relevant regional council, the

trustee, and the relevant iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations.

- “(4) Without limiting **subsection (1)(c)**, the processes and methods must—
- “(a) avoid increasing the demand for coastal permits, which would increase the value of space; and
 - “(b) reduce the risk of collusion; and
 - “(c) be cost effective for the Crown; and
 - “(d) enable an assessment to be made of the following:
 - “(i) the amount of anticipated new space in the region; and
 - “(ii) the value that would be representative of each of the types of aquaculture expected to be developed in the anticipated new space in the region; and
 - “(iii) the overall productive capacity of the anticipated new space available for aquaculture activities in each region; and
 - “(iv) the difference in value between—
 - “(A) the costs of obtaining, pursuant to an authorisation granted under this Act, a resource consent under the Resource Management Act 1991 that could commence under **section 116A** of that Act; and
 - “(B) the costs of obtaining the resource consent pursuant to an authorisation had the authorisation been granted in relation to an aquaculture management area as at 1 January 2004.

“**15 Review of plan**

- “(1) The Minister must begin a review of the plan prepared under **section 14**—
- “(a) by 31 December 2017; and
 - “(b) after that date, at intervals of not more than 5 years.
- “(2) However, the Minister must begin a review of the plan prepared under **section 14** at any time that it appears that the amount of anticipated new space is likely to change significantly.

“**16 Response to review of plan**

- “(1) If the plan prepared under **section 14** or a review of the plan prepared under **section 15** shows that the Crown needs to take action in order to meet its obligations under **section 9**, the Crown may do so under **section 9(1)(a), (b), or (c)**, as appropriate.

- “(2) Before taking action under **subsection (1)**, the Crown must consult—
- “(a) the trustee; and
 - “(b) the relevant iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations of affected iwi.
- “**16A When authorisations allocated to trustee lapse**
- “(1) **Section 165R** of the Resource Management Act 1991 does not apply to settlement assets.
- “(2) However, a settlement asset that is an authorisation does lapse if—
- “(a) a resource consent application for aquaculture activities has been declined in respect of the space that is subject to the authorisation; or
 - “(b) a resource consent has been cancelled under **section 116A(3) or (7)** of the Resource Management Act 1991.
- “(3) If an authorisation that is a settlement asset is transferred and (as a result of the transfer) it ceases to be a settlement asset, the authorisation lapses 2 years after the date on which the holder gives a notice of transfer of the authorisation to the regional council under **section 165Q** of the Resource Management Act 1991.”
- (2) On and from the commencement of this subsection until the commencement of **subsection (1)**, the Minister may by notice in the *Gazette* declare space in the coastal marine area to be an aquaculture settlement area as if **section 12**, as inserted by **subsection (1)** were in force.
- (3) However, no notice in the *Gazette* under **subsection (2)** comes into force until—
- (a) the commencement of **subsection (1)**; or
 - (b) any later date that is specified in the notice.

New clauses 57A to 57C

To insert the following clauses after *clause 57* (after line 7 on page 73):

57A Recognition of iwi aquaculture organisations

Section 33 is amended by adding the following subsections as subsections (2) to (5):

- “(2) The trustee must recognise a new iwi aquaculture organisation and record its recognition in the iwi aquaculture register in place of another iwi aquaculture organisation (an **existing iwi aquaculture organisation**) if—
- “(a) the new iwi aquaculture organisation is entitled to be recognised under subsection (1); and
 - “(b) before becoming a mandated iwi organisation under the Māori Fisheries Act 2004, the existing iwi aquaculture

organisation notified the members of the iwi of the proposed replacement and of the effect of that replacement in terms of **subsections (3) and (4)**.

- “(3) On and from the time when the new iwi aquaculture organisation is recognised in place of the existing iwi aquaculture organisation under **subsection (2)**, all rights and interests of the existing iwi aquaculture organisation under this Act become the rights and interests of the new iwi aquaculture organisation.
- “(4) Without limiting **subsection (3)**,—
- “(a) any regional agreement entered into under **section 10** by the existing iwi aquaculture organisation is to be treated as having been entered into by the new iwi aquaculture organisation; and
 - “(b) any entitlement, claim, agreement, or written statement in respect of the allocation of settlement assets made or entered into by the existing iwi aquaculture organisation is to be treated as having been made or entered into by the new iwi aquaculture organisation; and
 - “(c) any settlement assets held by the existing iwi aquaculture organisation become the settlement assets of the new iwi aquaculture organisation; and
 - “(d) any settlement assets held by an enterprise under section 32(3) for the existing iwi aquaculture organisation are to be held for the new iwi aquaculture organisation.
- “(5) To avoid doubt, section 50 does not apply to settlement assets that become the settlement assets of the new iwi aquaculture organisation by **subsections (3) and (4)**.”

57B Purpose of trust

- (1) Section 35(d) is amended by adding “; and”.
- (2) Section 35 is amended by adding the following paragraph:
 - “(e) perform any functions that are necessary or desirable to facilitate consultation between the Crown and iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations for the purposes of **sections 8** to 18.”

57C Duties of trustees

- (1) Section 38 is amended by inserting the following subsection after subsection (2A):
 - “(2B) The trustee, in performing its functions under **section 35(e)**, must consult the iwi aquaculture organisations, mandated iwi organisations, and recognised iwi organisations of those iwi

that it considers, on reasonable grounds, have an interest in the relevant region.”

- (2) Section 38(3) is amended by omitting “subsection (2A)” and substituting “subsections (2A) and **(2B)**”.

Clause 58

To insert the following subclause before *subclause (1)* (after line 8 on page 73):

- (1AA) Section 45 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) For the purposes of this section and sections 46 to 51,—
- “(a) in the case of the Waikato and Manawatu–Wanganui regions, the east coast and west coast of each region are to be treated as separate regions:
- “(b) in any case where the boundaries of a region change after settlement assets are created but before they are allocated, the settlement assets must be allocated on the basis of the boundaries of the region as at the time the settlement assets were created.”

New clause 59A

To insert the following clause after *clause 59* (after line 31 on page 73):

59A Transfer of authorisations or coastal permits

Section 50 is amended by repealing subsection (2) and substituting the following subsection:

- “(2) However, subsection (1) does not apply to a transfer of settlement assets by the iwi aquaculture organisation or trustee if the settlement assets are transferred to a company under the Companies Act 1993 that is wholly owned by—
- “(a) the iwi aquaculture organisation; or
- “(b) the iwi aquaculture organisation and other iwi aquaculture organisations in the region, but only if the transfer is approved by the iwi aquaculture organisation before the settlement assets are transferred.”

Clause 69A

To omit this clause (lines 33 to 36 on page 77 and lines 1 to 12 on page 78).

Clause 74

To add the following subclause as *subclause (2)* (after line 20 on page 79):

- (2) Section 87A is amended by adding the following subsection:
- “(7) However, subsection (6) does not apply to a concurrent application lodged under **subpart 4** of Part 7A.”

New clause 74A

To insert the following clause after *clause 74* (after line 20 on page 79):

74A Environment Court determines application

Section 87G is amended by adding the following subsection:

- “(8) However, in the case of an application for a coastal permit for aquaculture activities, for the purposes of **section 107F(3)(b) or (c)**, the consent authority must obtain from the Environment Court the information, report, and submissions referred to in those paragraphs and forward or send the information, report, and submissions to the chief executive of the Ministry of Fisheries.”

Clause 76

To insert the following subclause as subclause (1) (after line 25 on page 80):

- (1) Section 104(2A) is amended by inserting “or **165ZH(1)(c)**” after “section 124”.

Clause 79: new section 107F

Subsection (1): to add (line 5 on page 81) “, including an application under **subpart 4** of Part 7A”.

To add the following subsection (after line 8 on page 82):

- “(4) For the purposes of **subsection (3)(c)**, in the case of a concurrent application made under **subpart 4** of Part 7A that is lodged with the EPA, the copy of submissions required to be sent by the EPA to the chief executive is a copy of only those submissions that relate to the concurrent application and not those that relate to its plan change request.”

Clause 80

New section 114(4A): to omit “applications” in the first place where it appears (line 31 on page 82) and substitute “decisions”.

New section 114(4A): to insert after “applications” in the second place where it appears (line 33 on page 82) “to which the decisions relate”.

To add the following subsection (after line 9 on page 83):

- “(6) For the purpose of **subsection (4)**, in the case of a concurrent application made under **subpart 4** of Part 7A that is lodged with the EPA, the functions in—
- “(a) **paragraphs (a) and (b)** of that subsection are to be performed by the EPA; and
 - “(b) **paragraph (c)** of that subsection are to be performed by the consent authority.”

Clause 82: new section 116A

To insert the following subsection after *subsection (9)* (after line 22 on page 85):

- “(9A) In the case of a concurrent application made under **subpart 4** of Part 7A that is lodged with and granted by the EPA, the references in this section to the consent authority are to be read as references to the consent authority that otherwise could have granted the application.

New clauses 84A and 84B

To insert the following clauses after *clause 84* (after line 7 on page 86):

84A Exercise of resource consent while applying for new consent

Section 124 is amended by adding the following subsection:

- “(4) This section does not apply to an application to which **section 165ZH** applies.”

84B When sections 124B and 124C apply and when they do not apply

Section 124A is amended by adding the following subsection:

- “(4) Sections 124B and 124C apply subject to sections **165ZH** to **165ZJ**.”

New clauses 88A to 88H

To insert the following clauses after *clause 88* (after line 33 on page 87):

88A Matter lodged with EPA

- (1) Section 145 is amended by inserting the following subsection after subsection (1):

“(1A) A person must not lodge with the EPA a plan change request made under **subpart 4** of Part 7A unless the person also lodges with it a concurrent application under that subpart.”

- (2) Section 145 is amended by inserting the following subsection after subsection (9):

“(9A) If the matter is a concurrent application lodged with a plan change request made under **subpart 4** of Part 7A, **section 107F(3)** applies except that the reference to the consent authority in that subsection must be read as a reference to the EPA.”

88B EPA to recommend course of action to Minister

Section 146 is amended by adding the following subsection:

- “(5) This section applies to plan change requests and concurrent applications made under **subpart 4** of Part 7A subject to the following:

“(a) the 20 working days referred to in subsection (1) begins on the later of the following days:

“(i) the day on which the EPA determines that, for the purposes of section 88(3), the concurrent application is complete:

“(ii) the day on which the EPA receives all the information and reports required under section 149:

“(b) any recommendation made by the EPA under this section must relate to both the plan change request and its concurrent application.”

88C Minister makes direction after EPA recommendation

Section 147 is amended by adding the following subsection:

- “(7) For the purposes of a plan change request made, and a concurrent application lodged, under **subpart 4** of Part 7A, a direction given under this section must relate to both.”

88D EPA must give public notice of Minister’s direction

- (1) Section 149C(2)(d) is amended by adding “; or”.
- (2) Section 149C(2) is amended by adding the following paragraph:
- “(e) the matter is a concurrent application made under **subpart 4** of Part 7A.”

88E EPA to receive further submissions if matter is request, change, or variation

- (1) Section 149F is amended by repealing subsection (4) and substituting the following subsection:
- “(4) However, a further submission—
- “(a) may only be in support of or in opposition to a submission made on a matter under section 149E;
- “(b) may not be made on a concurrent application made under **subpart 4** of Part 7A.”
- (2) Section 149F is amended by adding the following subsection:
- “(8) In subsection (1), **request for a change to a plan**, in relation to a plan change request made under **subpart 4** of Part 7A, includes the concurrent application that relates to the plan change request.”

88F Limitation on withdrawal of change or variation

Section 149I is amended by adding the following subsection:

- “(3) If the applicant withdraws a request for a change to the plan that is a plan change request made under **subpart 4** of Part 7A, the concurrent application that relates to the plan change request is to be treated as having been withdrawn.”

88G Process if matter is request for regional plan or change and particular circumstances apply

Section 149M is amended by inserting the following subsection after subsection (4):

- “(4A) For the purposes of subsection (4)(c), in the case of a plan change request made under **subpart 4** of Part 7A, the concurrent application—
- “(a) must be included in the public notice and invitation to make submissions; but

“(b) must not be included in the invitation to make further submissions.”

88H Board to produce final report

Section 149R is amended by adding the following subsection:

“(7) The EPA’s functions under this section are in addition to the EPA’s functions under section 114**(6)(a)**.”

Clause 89(1) and (2)

To omit these subclauses (lines 3 to 11 on page 88) and substitute the following subclauses:

- (1) Section 149N(4) is amended by omitting “subsection (9)” and substituting “**subsection (8)(b)**”.
- (2) Section 149N is amended by repealing subsections (8) and (9) and substituting the following subsection:

“(8) However, a rule has legal effect on and from the date on which the EPA gives public notice of—

 - “(a) the proposed plan or change under section 149O if the rule—
 - “(i) protects or relates to water, air, or soil (for soil conservation); or
 - “(ii) protects areas of significant indigenous vegetation; or
 - “(iii) protects areas of significant habitats of indigenous fauna; or
 - “(iv) protects historic heritage:
 - “(b) the proposed plan under section 149O if the rule provides for or relates to aquaculture activities.”

New clauses 89AA and 89AB

To insert the following clauses after *clause 89* (after line 11 on page 88):

89AA Public notice and submissions where EPA receives proposed plan or change from local authority under section 149N

Section 149O is amended by repealing subsection (3) and substituting the following subsection:

- “(3) Any person may make a submission on—
- “(a) a proposed plan or change for which public notice is given under subsection (2), and, for that purpose, section 149E(3), (4), and (8) apply:
 - “(b) a concurrent application for which public notice is given under subsection (2), and, for that purpose, section 149E(5) applies.”

89AB Consideration of matter by board

- (1) Section 149P(1)(c) is amended by omitting “or (7),” and substituting “(7), **(8), or (9)**”.
- (2) Section 149P is amended by adding the following subsections:
 - “(8) A board of inquiry considering a plan change request and its concurrent application made under **subpart 4** of Part 7A must—
 - “(a) firstly, determine matters in relation to the plan change request; and
 - “(b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the plan change request.
 - “(9) For the purposes of **subsection (8)(b)**, a board of inquiry must process, consider, and determine the concurrent application as if it were a regional council acting under **section 165ZW** and that section applies accordingly with all necessary modifications.
 - “(10) A board of inquiry must decline a concurrent application if, as a result of the board’s determination on the plan change request, the aquaculture activity that the concurrent application relates to remains a prohibited activity.”

Clause 90

New section 165AA: to add the following subsection (after line 18 on page 89):

- “(5) **Subpart 4** provides for plan change requests and concurrent coastal permit applications in relation to a rule in a regional coastal plan that,—
 - “(a) as at 1 October 2011, specifies an aquaculture activity as a prohibited activity; and
 - “(b) is operative when a concurrent application is lodged.

New section 165C: to insert the following section before the heading above *new section 165D* (after line 17 on page 90):

“165C Applications in relation to aquaculture settlement areas

- “(1) No person may apply for a coastal permit authorising occupation of space in an aquaculture settlement area (within the meaning of the Maori Commercial Aquaculture Claims Settlement Act 2004), for the purpose of aquaculture activities, unless the person is a holder of an authorisation that—
 - “(a) relates to that space and activity; and
 - “(b) was allocated to the trustee under **section 13** of that Act.
- “(2) A consent authority may grant a coastal permit authorising any other activity in an aquaculture settlement area, but only—
 - “(a) to the extent that that activity is compatible with aquaculture activities; and
 - “(b) after consultation with the trustee and iwi in the region.

- “(3) **Subsection (1)** does not affect any application received by a consent authority—
- “(a) after 1 January 2005; but
 - “(b) before the space became an aquaculture settlement area.
- “(4) In **subsection (2)(b)**, **iwi** has the same meaning as in the Maori Fisheries Act 2004.

New section 165F(5): to omit “**(1)**” (line 11 on page 93) and substitute “**(4)**”.

New section 165I(2)(c): to omit “the purpose of” (line 16 on page 95) and substitute “to facilitate compliance with”.

New section 165I(2): to add the following paragraph (after line 15 on page 95):

- “(d) to assist the Crown to comply with its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

New section 165I(3): to add the following paragraph (after line 24 on page 95):

- “(d) the allocation, at no cost, of authorisations relating to specific spaces in a common marine and coastal area, or a certain proportion of the authorisations proposed to be allocated, to the trustee that is representative of the entire space that is subject to the allocation method.

New section 165I(5): to omit “**or (c)**” (line 32 on page 95) and substitute “**, (c), or (d)**”.

New section 165I: to add the following subsection (after line 15 on page 96):

- “(8) An authorisation allocated in accordance with **subsection (3)(d)** is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004 and the area to which the authorisation relates is an aquaculture settlement area for the purposes of that Act.

New section 165J(1)(a): to omit “and the activities” (line 27 on page 96).

New section 165K(2): to omit “request” in the third place where it appears (line 15 on page 98) and substitute “day on which public notice of the request is given under **section 165J(5)(a)**”.

New section 165L(3)(a): to omit “likely” (line 20 on page 99) and substitute “anticipated”.

New section 165L(3)(b)(i): to insert “anticipated” after “the” (line 27 on page 99).

New section 165L(3A)(c): to omit “the purpose of” (line 4 on page 100) and substitute “the need to facilitate compliance with”.

New section 165L(3A): to add the following paragraph (after line 4 on page 100):

- “(d) the ability of the Crown to give effect to its obligations under the Maori Commercial Aquaculture Claims Settlement Act 2004.

New section 165L(4)(b)(iii): to omit “must be exercised” (line 24 on page 100) and substitute “will lapse”.

New section 165L(4)(b): to insert the following subparagraph after *subparagraph (iii)* (after line 26 on page 100):

“(iiia) any restrictions on transferring authorisations allocated under the public tender or other allocation method; and

New section 165L(4)(b)(vi): to add “; and” (line 38 on page 100).

New section 165L(4)(b)(vii): to add the following subparagraph after *subparagraph (vi)* (after line 38 on page 100):

“(vii) that authorisations relating to specific spaces, or a certain proportion of the authorisations that are representative of the entire space for which authorisations are to be offered in accordance with the public tender or other allocation method, must be allocated to the trustee at no cost.

New section 165L: to add the following subsections before *new section 165M* (after line 18 on page 101):

“(6) A provision in a regional coastal plan that relates to the allocation of space to which a *Gazette* notice under this section relates does not apply during the period of the approval to the extent that it is inconsistent with the terms of the *Gazette* notice.

“(7) An authorisation allocated in accordance with **subsection (4)(b)(vii)** is a settlement asset for the purposes of the Maori Commercial Aquaculture Claims Settlement Act 2004 and the area to which the authorisation relates is an aquaculture settlement for the purposes of that Act.

New section 165Q(2)(a): to omit this paragraph (line 34 on page 103) and substitute the following paragraph:

“(a) the *Gazette* notice under **section 165L** under which the authorisations were allocated; and

New section 165Q(2)(b): to add (line 1 on page 104) “under which the authorisations were allocated”.

New section 165Y: to omit “common marine and coastal” (lines 33 and 34 on page 108) and substitute “coastal marine”.

New section 165ZA(2): to omit “on the day of the request” (line 31 on page 112) and substitute “on the day on which public notice of the request is given under **section 165Z(4)(a)**”.

Heading to new section 165ZD: to omit “**hear and process**” (lines 19 and 20 on page 115) and substitute “**process and hear**”.

New section 165ZD(2): to omit “hear and process” (line 37 on page 115) and substitute “process and hear”.

Clause 92(2): new subsection (2)

To omit *paragraph (b)* (lines 16 to 18 on page 125).

Clause 93

To omit this clause (lines 21 to 36 on page 125) and substitute the following clause:

93 New section 165ZH substituted

Section 165ZH is repealed and the following section substituted:

“165ZH Processing applications for existing permit holders

“(1) This section applies if—

“(a) a person holds—

“(i) a deemed coastal permit under section 10, 20, **20A**, or 21 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004; or

“(ii) a coastal permit to occupy space in the common marine and coastal area for aquaculture activities, granted after the commencement of this Part; and

“(b) the permit referred to in **paragraph (a)(i) or (ii) (existing coastal permit)**—

“(i) is in force at the time of any application under **paragraph (c)**; and

“(ii) applies in relation to space in the common marine and coastal area in which aquaculture is not a prohibited activity; and

“(c) the holder of the existing coastal permit (**existing permit holder**) makes an application for a new coastal permit that is—

“(i) for occupation of some or all of the same space; and

“(ii) for the same or another aquaculture activity; and

“(iii) accompanied by any other applications for coastal permits related to the carrying out of the aquaculture activity; and

“(d) the application and any related applications are—

“(i) made to the appropriate consent authority; and

“(ii) made—

“(A) at least 6 months before the expiry of the existing coastal permit; or

“(B) in the period that begins 6 months before the expiry of the existing coastal permit and ends 3 months before the expiry of the existing coastal permit, and the authority, in its discretion, allows the holder to continue to operate.

“(2) If this section applies, then—

- “(a) the applications, must be processed and determined before any other application for a coastal permit to occupy the space that the permit applies to; and
- “(b) no other application to occupy the space that the application relates to may be accepted before the determination of the application; and
- “(c) the holder may continue to operate under the existing coastal permit until—
 - “(i) a new coastal permit is granted and all appeals are determined; or
 - “(ii) a new coastal permit is declined and all appeals are determined.”

Clause 93A

To add the following subclauses (after line 7 on page 126):

- (3) Section 165ZI(4)(b) is amended by omitting “section 124” and substituting “**section 165ZH(1)(c)**”.
- (4) Section 165ZI(5) is amended—
 - (a) by omitting “section 165ZH(2)” and substituting “**section 165ZH(1)(c)**”; and
 - (b) by omitting “in accordance with section 124”.
- (5) Section 165ZI(8) is amended by omitting “section 124” and substituting “**section 165ZH(1)(c)**”.

Clause 94

To omit subclause (1) (line 10 on page 126) and substitute the following:

- (1) Section 165ZJ is amended by inserting the following subsection before subsection (1):

“(1AA) When considering an application under **section 165ZH** that relates to the same aquaculture activity, a consent authority must consider all relevant information available in relation to the existing coastal permit, including any available monitoring data.”
- (2) Section 165ZJ(1) is amended by omitting “section 165ZH(2)” and substituting “**section 165ZH**”.
- (3) Section 165ZJ(1) is amended by repealing paragraph (c).

New clause 94A

To insert the following clause after *clause 94* (after line 10 on page 126):

94A New subpart 4 of Part 7A inserted

The following subpart is inserted after subpart 3 of Part 7A:

“Subpart 4—Plan change requests and concurrent applications for coastal permits in relation to aquaculture activities

“**165ZK Application**

This subpart applies only in relation to a rule in a regional coastal plan that,—

- “(a) at the commencement of **section 94A of the Aquaculture Legislation Amendment Act (No 3) 2010**, provided that an aquaculture activity is a prohibited activity, whether in all or part, of the common marine and coastal area that the plan applies to; and
- “(b) is still operative when a plan change request is made.

“**165ZL Interpretation**

In this subpart, unless the context otherwise requires,—

“**concurrent application** means an application made under **section 165ZN** that is made in conjunction with a plan change request

“**plan change request** means a plan change request—

- “(a) made under clause 21 of Schedule 1, in relation to a rule referred to in **section 165ZK**,—
 - “(i) to provide for aquaculture activities; and
 - “(ii) to make any related changes; and
- “(b) made in conjunction with, or in contemplation of, a concurrent application.

“**165ZM Other provisions of Act apply subject to this subpart**

- “(1) The provisions of this Act relating to consent applications and plan change requests apply to concurrent applications and plan change requests under this subpart subject to the provisions of this subpart.
- “(2) **Subsections (3) to (4)** do not limit **subsection (1)**.
- “(3) Section 36AA and any regulations made under section 360(1)(hj) do not apply in relation to a concurrent application.
- “(4) The following provisions of Part 6 do not apply to a concurrent application: sections 88A to 88E, 95 to 95G, 96(7), 97, 99 to 103A, 115, and 121(1)(c).

“**165ZN Application for coastal permit to undertake aquaculture activities**

- “(1) An application for a coastal permit to undertake an aquaculture activity in the common marine and coastal area that otherwise could not be made because of section 87A(6) may be made if—

- “(a) the person making the application also makes a plan change request under clause 21 of Schedule 1; and
 - “(b) the application for the coastal permit is made—
 - “(i) at the same time as the plan change request is made; or
 - “(ii) if the plan change request is lodged with a regional council, within 20 working days after receiving the regional council’s notification of its decision under clause 25(5) of Schedule 1; and
 - “(c) the plan change request is to change—
 - “(i) the regional coastal plan to make the aquaculture activity in the common marine and coastal area a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity; and
 - “(ii) related matters (if any) in the regional coastal plan.
 - “(d) the application for the coastal permit would be consistent with the plan change if the plan change request were accepted and made.
- “(2) For the purposes of **subsection (1)(d), section 165ZW(1)** is to be disregarded.

“**165ZO Identifying plan change requests and concurrent applications**

- “(1) A concurrent application must identify the plan change request it relates to.
- “(2) A plan change request must—
 - “(a) identify the concurrent application it relates to, if the plan change request and concurrent application are made at the same time; or
 - “(b) specify that it is intended to lodge a concurrent application subsequently, if the plan change request is accepted.

“**165ZP Incomplete concurrent application**

- “(1) This section applies if a concurrent application is returned, under section 88(3), as incomplete.
- “(2) The regional council is not required to take any further action on the plan change request unless the application is lodged again within the time specified in **subsection (3)**.
- “(3) If the application is not lodged again within 20 working days after the date on which the applicant receives the returned application, the application and the plan change request lapse.

“165ZQ Additional consents

- “(1) If the regional council makes a determination under section 91(1), it must do so within 20 working days after—
- “(a) the expiry of the 5 working days specified in section 88(3), if the application is not returned as incomplete;
 - “(b) the day after the application is lodged again under **section 165ZP(3)**, if the application was returned as incomplete under section 88(3).
- “(2) If the regional council determines that 1 or more further consents will be required, the regional council is not required to take any further action on the plan change request until the applications for the further consents have been lodged and accepted as complete under section 88(3).

“165ZR Concurrent application to be declined or treated as withdrawn if plan change request declined or withdrawn

- “(1) If, under clause 25(4) of Schedule 1, a regional council rejects a plan change request, then the concurrent application lapses.
- “(2) If, under clause 25(2)(b) of Schedule 1, a regional council accepts a plan change request in part so that the aquaculture activity that the concurrent application relates to remains a prohibited activity, then the regional council must decline the concurrent application as a result of the decision made under clause 25(4) of Schedule 1.
- “(3) If a plan change request is withdrawn or deemed to be withdrawn under clause 28 of Schedule 1, the concurrent application that relates to the plan change request is to be treated as having been withdrawn.

“165ZS Consideration of plan change request

- “(1) The regional council—
- “(a) may not adopt a plan change request under clause 25(2)(a) of Schedule 1; but
 - “(b) may accept a plan change request under clause 25(2)(b) of Schedule 1.
- “(2) If the regional council accepts a plan change request, the person making the plan change request may, within 20 working days after being notified of the council’s decision under clause 25(5) of Schedule 1,—
- “(a) if a concurrent application has been lodged with the plan change request and the plan change request has been modified under clause 24 of Schedule 1,—
 - “(i) amend the concurrent application; or
 - “(ii) withdraw the concurrent application and lodge a replacement concurrent application:

- “(b) if a concurrent application has not been lodged with the plan change request, lodge a concurrent application.

“165ZT Notification of accepted plan change request

- “(1) For the purposes of publicly notifying an accepted plan change request and its concurrent application under clause 26(b)(i) of Schedule 1, the period of 4 months specified in that subparagraph begins on the day as determined in accordance with **subsection (2), (3), or (4)**, as the case may require.
- “(2) If a concurrent application has been lodged, the period begins on the day on which the regional council receives written confirmation from the applicant that the applications will not be amended or withdrawn.
- “(3) If a concurrent application has been lodged but has been amended, or withdrawn and a replacement application lodged, the period begins on the day on which the regional council confirms to the applicant that the application as amended or the replacement application is complete and that no other resource consents are required.
- “(4) If a concurrent application has not been lodged but is lodged after the plan change request is accepted by the regional council, the period begins on the day on which the regional council confirms to the applicant that the application is complete and that no other resource consents are required.
- “(5) Notification of a plan change request under **subsection (1)** must also include notification of the concurrent application.
- “(6) For the purposes of **subsection (5)**, clause 5 of Schedule 1 applies with all necessary modifications and as if references to a plan or regional coastal plan were references to a plan change request and its related concurrent application and as if the reference to a proposed change in clause 5(3)(b) of that Schedule included a reference to its concurrent application.

“165ZU Submissions on plan change request and concurrent application

- “(1) The regional council must, in addition to preparing a summary of submissions on the plan change request, prepare a summary of submissions on the concurrent application.
- “(2) Clause 7 of Schedule 1 accordingly applies also to the summary of submissions on the concurrent application.
- “(3) However, no person may make further submissions under clause 8 of Schedule 1 on a concurrent application.

“165ZV Hearing of submissions

- “(1) The regional council must hear, under clause 8B of Schedule 1, any submissions on a plan change request and its concurrent application together.
- “(2) For the purposes of clause 8C of Schedule 1, a hearing is not required if, in addition, no person indicates they wish to be heard, or the request to be heard is withdrawn, in relation to the concurrent application.

“165ZW Type of activity in relation to concurrent activities

- “(1) After a plan change request has been accepted and publicly notified, the regional council must process the concurrent application that the plan change request relates to on the basis that the activities for which the application is made are non-complying activities.
- “(2) The concurrent application must be considered and determined on the basis that the activities for which the application is made are controlled activities, restricted discretionary activities, discretionary activities, or non-complying activities in accordance with the regional council’s decision on the plan change request that the concurrent application relates to.

“165ZX Consideration of plan change request and concurrent application

- “(1) A regional council considering a plan change request and its concurrent application made under **subpart 4** of Part 7A must—
 - “(a) firstly, determine matters in relation to the plan change request; and
 - “(b) secondly, determine matters in relation to the concurrent application, based on its determination of matters in relation to the plan change request.
- “(2) A regional council must decline a concurrent application if, as a result of the council’s determination on the plan change request, the aquaculture activity that the concurrent application relates to remains a prohibited activity.

“165ZY Regional council’s decision on concurrent application

The regional council must make and publicly notify its decision on the concurrent application not later than the close of the 20th working day after publicly notifying its decision on the plan change request in accordance with clause 10(4) of Schedule 1.

“165ZZ Appeals

- “(1) An appeal against a decision relating to the plan change request or the concurrent application or both must be lodged within 20 working days after the day on which the regional council publicly notifies its decision on the concurrent application.
- “(2) If appeals are lodged against both the decision on the plan change request and the concurrent application, the appeals must be heard together.

“165ZZA Grant of coastal permit

- “(1) If the regional council grants a concurrent application and issues a coastal permit, the commencement of the coastal permit under **section 116A** is subject to the Minister of Conservation approving the plan change.
- “(2) If the Minister of Conservation declines to approve the plan change, the regional council must cancel the coastal permit.”

New clause 96A

To insert the following clause after *clause 96* (after line 3 on page 129):

96A Existing notices, bylaws, etc, to become regional coastal plans

Section 370 is amended by adding the following subsection:

- “(5) However, subsection (4) does not apply to a plan change request made under **subpart 4** of Part 7A.”

Clause 100

Subclause (3): to omit “July” (line 10 on page 130) and substitute “October”.

Subclause (5): to omit “as if the amendments had been made by the Tasman District Council” (lines 18 and 19 on page 130).

Subclause (6): to omit “as prepared by the Tasman District Council and approved by the Minister of Conservation on 14 June 2005” (lines 33 and 34 on page 130).

Subclause (6)(c)(i): to omit “paragraphs” (line 2 on page 131) and substitute “provisions”.

Subclause (6)(c)(i): to omit “waters” (line 3 on page 131) and substitute “water”.

Subclause (6)(c)(ii): to omit “Rules 31.1.2, 31.1.3, 31.1.6, 31.1.6A and the applicable reasons in Section 31.1.7” (lines 4 to 6 on page 131) and substitute “Rule 31.1.2 and the applicable reasons for this rule in Section 31.1.20”.

Subclause (6)(c)(iii): to omit “in the coastal marine area” (lines 7 and 8 on page 131) and substitute “affecting coastal water”.

Subclause (6)(e): to omit this paragraph (lines 14 and 15 on page 131) and substitute the following paragraph:

- (e) the planning maps 180 to 225 and 250 to 252.

Clause 101

Subclause (3): to omit “July” (line 23 on page 131) and substitute “October”.

Subclause (5): to omit “as if the amendments had been made by the Waikato Regional Council” (lines 31 and 32 on page 131).

Schedule 1

Heading to Schedule 1: to omit “and 2” (line 2 on page 133) and substitute “, 2, and 3”

New Schedule 1: paragraph 1: to omit “2023” (line 8 on page 133) and substitute “2033”.

New Schedule 1: paragraph 3: to omit “By 1 September 2011” (line 26 on page 133) and substitute “Within 2 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**”.

New Schedule 1: paragraph 4: to omit “By 1 September 2011” (line 1 on page 134) and substitute “Within 2 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**”.

New Schedule 1: paragraph 16A: to omit “months of” (line 19 on page 137) and substitute “months after”.

New Schedule 1: paragraph 16A: to add the following sentence (line 24 on page 137):

The consent holder shall adhere to the monitoring requirements set out in the approved monitoring plan or any subsequent plan that is submitted by the consent holder and approved in writing by the Chief Executive of the Waikato Regional Council.

New Schedule 1: paragraph 17: to omit “Before 1 September 2011” (line 26 on page 137) and substitute “Within 2 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**”.

New Schedule 1: paragraph 20: to omit “Before 1 September 2011” (line 22 on page 138) and substitute “Within 2 months after the commencement of **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010**”.

New Schedule 1: Advice note 6: to omit this note (lines 8 to 15 on page 141) and substitute the following:

6. This resource consent provides for activities previously authorised by a marine farming permit. This resource consent was created on 1 October 2011 by **Part 1 of the Aquaculture Legislation Amendment Act (No 3) 2010** and expires on 31 December 2033 (**section 20A** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004). The consent holder has a right to apply for a replacement resource consent pursuant to **section 165ZH** of the Resource Management Act 1991 and **section 20A** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

New Schedule 2: paragraph 4: to omit this paragraph (lines 30 to 35 on page 143) and substitute the following paragraph:

4 Section 186ZI(1) applies as if **paragraph (b)** of that subsection were repealed and the following paragraph were substituted:

“(b) within 6 months after the date of the notice under **section 25A(8), 26A(8), or 50A(8)** of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.”

Schedule 1: new Schedule 3: to insert the following schedule after *new Schedule 2* (after line 19 on page 144):

Schedule 3		s 47
Deferred applications		
Auckland Regional Council consent application number	Waikato Regional Council consent application number (if applicable for transferred applications)	Acceptance date
24873		19/02/01
25068		21/03/01
24875		19/02/01
25408	122631	29/05/01
25376		21/05/01
25376	122626	21/05/01
25730		31/08/01
25341	122620	14/05/01
25343	122622	14/05/01
25345		14/05/01
25345	122624	14/05/01
25534		06/07/01
25536	122632	06/07/01
25538	122634	06/07/01
24420		04/10/00
24661	122618	27/11/00
24694		07/12/00
24696		07/12/00
24698		07/12/00
25979		16/10/01

Schedule 1B

New regulation 10(e): to omit this paragraph (lines 20 and 21 on page 146).

New regulation 11(b): to omit “site” (line 36 on page 146) and substitute “space in the coastal marine area”.

New regulation 11(d): to omit this paragraph (lines 6 and 7 on page 147) and substitute the following paragraph:

- “(d) the stocks that the pre-request aquaculture agreement relates to:

New regulation 11(e): to omit this paragraph (lines 8 to 10 on page 147).

New regulation 11(g) and (h): to omit these paragraphs (lines 13 to 17 on page 147) and substitute the following paragraphs:

- “(g) the coastal permit number or coastal permit application number that the pre-request aquaculture agreement relates to:
- “(h) the expiry date of the coastal permit that the pre-request aquaculture agreement relates to.”

Schedule 3

Chapter 6

To omit “Wilson’s” (line 9 on page 196) and substitute “Wilson”.

To insert after “development” (line 10 on page 197) “, including space for the farming of other species,”.

To insert the following after line 16 on page 197:

Insert the following paragraphs after the ninth paragraph:

“In recognition of this demand, the Coromandel marine farming zone (located within the Hauraki Gulf; refer to Map 13 and Schedule 6 in Appendix III) has been established to provide sufficient area for the commercialisation of fed aquaculture such as the farming of kingfish and hāpuku. This zone is located away from major constraints such as commercial shipping, ferry, and major cruising routes, recreational boating anchorages, and recreational fishing hotspots. The zone has been created following investigations by the National Institute of Water and Atmospheric Research and a report from a Ministerial Advisory Panel appointed by the Minister of Aquaculture.

“The zone is located in a deep (30 to 40 metres), well-flushed area where the seafloor is comprised of soft sands and mud that accommodate no known habitats or assemblages of particular ecological or conservation value, that are likely to be adversely affected by marine farming activities within the zone. While public access will be maintained through appropriate parts of the zone, the zone will effectively exclude some users of the coastal marine area such as yachts and commercial fishing. Likewise the presence of marine farm structures within the zone will have an impact on the natural character and visual amenity of the area, although it is considered that the location of the zone reduces landscape effects on land-based observers as the zone is not visible from land at sea level. These potential public access, natural character and visual amenity effects will be managed by conditions on, for example, the vertical height, type and appearance of structures.”

To insert the following after line 17 on page 197:

Policy 6.1.1

Paragraph 2 second sentence: insert “within which the Wilson Bay marine farming zone is located” after “water body”.

Paragraph 2 fourth sentence: insert “, principally within specific marine farming zones,” after “coastal marine area”.

New policies 6.1.1A to 6.1.1C

To omit “**6.1.1C**” (line 18 on page 197) and substitute “**6.1.1D**”.

To omit lines 1 to 17 on page 199 and substitute the following:

“6.1.1B Policy – Limits on Fed Aquaculture

“Manage fed aquaculture by:

- “(i) within the Firth of Thames, limiting the total net discharge of nitrogen from fed aquaculture to a maximum of 300 tonnes of nitrogen per year;
- “(ii) within the Wilson Bay marine farming zone (as identified in Map 11 and Schedule 6 in Appendix III), restricting fed aquaculture to Area C and giving preference to the use of this area for fed aquaculture; and
- “(iii) within the Coromandel marine farming zone (as identified in Map 13 and Schedule 6 in Appendix III), limiting the total net discharge of nitrogen from fed aquaculture to a maximum of 800 tonnes per year and an associated maximum of 13,600 tonnes of feed discharged per year.

“Explanation and Principal Reasons for Adopting: In keeping with the precautionary approach established by Policy 6.1.1, and the guidance provided by Policy 6.1.1A, and the requirements of Policy 6.1.4, new types of aquaculture that involve the discharge of nitrogen into the coastal marine area will only be able to occur on a limited scale in the semi-enclosed waters of the Firth of Thames and on a larger scale outside the Firth.

To insert the following after line 23 on page 199:

“For the purposes of this policy the Firth of Thames is considered to be all the coastal marine area south of a line between Deadmans Point and Orere Point (refer to the Glossary in Appendix VI).

To omit “Wilson” (line 33 on page 199) and substitute “Wilson”.

To insert the following after line 9 on page 200:

“6.1.1D Policy – Establishment and Management of the Coromandel Marine Farming Zone

- “a) Provide for fed aquaculture in the Coromandel marine farming zone through the provision of space in appropriately deep and well-flushed water while avoiding effects on significant ecological values and significant effects on other users of the coastal marine area.

- “b) Ensure that the Coromandel marine farming zone is used for environmentally sustainable fed aquaculture and any associated multi-trophic aquaculture by:
- “i) allocating space within the zone to the most efficient and effective use of the space in accordance with Method 17.5.2A;
 - “ii) requiring staged and adaptive management of the zone in accordance with Policy 6.1.4 and Rule 16.5.8; and
 - “iii) requiring consistent monitoring of all farms operating within the zone.

“Explanation and Principal Reasons for Adopting: There is demand for the establishment of higher-value aquaculture, in particular the farming of fish such as kingfish and hāpuku. These species require feeding and this introduces environmental effects that require careful management. To optimise the value of these species on global markets they must be produced in an environmentally sustainable manner.

“The Coromandel marine farming zone, located within the Hauraki Gulf (refer to Map 13 and Schedule 6 in Appendix III) is considered suitable for fed aquaculture in terms of physical and hydrological characteristics due to the water depth and the nature of the seafloor in that area. As such, marine farming in the zone is considered to be sustainable in terms of its environmental impacts. Its sustainability will be ensured by monitoring and adaptive management including the staging of development. Investigations into this site have indicated that it is an appropriate location for fed aquaculture¹.

Policy 6.1.4

To omit “Wilsons” (line 16 on page 200) and substitute “Wilson”.

To omit *subparagraph (iii)* (lines 20 to 24 on page 200).

To omit “Thus, on the western coast of the Coromandel Peninsula, a marine farming zone has been identified (known as the Wilsons Bay Zone, refer Map 11 and in Schedule 6” (lines 25 to 28 on page 201) and substitute “Thus, on the western coast of the Coromandel Peninsula, marine farming zones have been identified (known as the Wilson Bay and Coromandel marine farming zones, refer to the marine farming zone maps and schedules”.

To omit “Development will be required to progress significantly in the zone before further development on the western coast of the Coromandel Peninsula will be considered.” (lines 29 to 31 on page 201).

To omit “Wilsons” (line 34 on page 201) and substitute “Wilson”.

¹ Refer to the Aquaculture Ministerial Advisory Panel’s report entitled Proposed Coromandel Finfish Marine Farming Zone. Report of the Ministerial Advisory Panel. 25 February 2011. Ministry of Fisheries Unpublished Report. 56 p.

To omit “with Policy 6.1.1B, in Area C of the Wilsons Bay Zone” (lines 34 and 35 on page 201) and substitute “with Policies 6.1.1B and 6.1.1D, in Area C of the Wilson Bay and the Coromandel marine farming zones”.

To omit “**Wilsons**” (lines 7, 9, and 28 on page 202) and substitute in each case “**Wilson**”.

To omit “Wilsons” (lines 31 and 35 on page 204) and substitute in each case “Wilson”.

To omit “**Wilsons**” (lines 9 on page 205) and substitute “**Wilson**”.

To omit “Wilsons” (line 23 on page 205) and substitute “Wilson”.

To omit “Wilsons” (lines 17 and 18 on page 207) and substitute in each case “Wilson”.

To omit “**Wilsons**” (line 24 on page 207) and substitute “**Wilson**”.

To omit “Wilsons” (line 2 on page 208) and substitute “Wilson”.

To omit “Wilsons” (lines 21, 24, and 35 on page 209) and substitute in each case “Wilson”.

To omit “**Wilsons Bay Zone**” (line 10 on page 210) and substitute “**Wilson Bay and the Coromandel Marine Farming Zones**”.

New Rules 16.5.5A to 16.5.5C

To omit “**16.5.5C**” (line 11 on page 210) and substitute “**16.5.5E**”.

To omit “Wilsons” (line 27 on page 210) and substitute “Wilson”.

To omit “Marine Farming Zone as shown on Map 11” (line 28 on page 210) and substitute “or Coromandel marine farming zone as shown on the marine farming maps”.

To insert after “16.5.5A” (line 17 on page 213) “and Rule 16.5.5D”.

To omit “Wilsons” (line 9 on page 214) and substitute “Wilson”.

To omit “**limited, to**” (line 18 on page 215) and substitute “**limited to,**”.

To omit “Wilsons” (lines 21 and 22 on page 216) and substitute in each case “Wilson”.

To omit “**Wilsons**” (line 3 on page 217) and substitute “**Wilson**”.

To insert after “farming activities” (line 5 on page 217) “(excluding discharges provided for by Rules 16.5.4C and 16.5.5E)”.

To omit “Wilsons” (line 27 on page 217) and substitute “Wilson”.

To insert the following after line 4 on page 220:

“Marine Farming within the Coromandel Marine Farming Zone

“16.5.5D Marine Farm Structures within Coromandel Marine Farming Zone (Discretionary Activity)

“The erection, placement, use of, or occupation of space by, any marine farming structure within the marine farming zone as shown on Map 13 in Appendix III of this Plan and associated discharges to water and air (but excluding the discharge of feed and medicinal or

therapeutic compounds), and disturbance of and deposition on the seabed for the purpose of marine farming, is a discretionary activity provided it complies with the standards and terms stated in this Rule.

“NB: Discharges of feed, medicinal or therapeutic compounds require a separate resource consent under Rule 16.5.5E.

“Standards and Terms

- “i) The applicant holds a current authorisation issued by the Waikato Regional Council pursuant to Method 17.5.2A or a current authorisation granted as a settlement asset to apply for a coastal permit to occupy space within the zone.
- “ii) The application is consistent with the applicant’s tender as accepted by the Waikato Regional Council or any agreement negotiated under **section 165V** of the Resource Management Act 1991 under Method 17.5.2A or a current authorisation granted as a settlement asset and approved by the Waikato Regional Council.
- “iii) The applicant has submitted, as part of the resource consent application for this activity, a baseline survey and a proposed monitoring programme that addresses the matters set out in Appendix IA of this Plan.
- “iv) The application is not for the farming of unfed shellfish except as part of a multi-trophic farming system including fed aquaculture.

“Assessment Criteria

“In assessing any application, regard shall be had to:

- “i) the Decision-Making Criteria and Considerations which are set out in Appendix II of this Plan, and which are relevant to this activity;
- “ii) the potential for genetic effects on wild populations resulting from escapees and/or interbreeding;
- “iii) the potential for parasites and/or diseases to be introduced and their potential transmission between farmed stock and wild populations;
- “iv) the extent to which the activity will affect indigenous biodiversity, including any area of significant indigenous vegetation or significant habitat of indigenous fauna;
- “v) the matters considered by a Ministerial Advisory Panel on the Coromandel marine farming zone²;
- “vi) the extent to which the baseline survey and proposed environmental monitoring programme meet or exceed the guidance

² Refer to the Aquaculture Ministerial Advisory Panel’s report entitled Proposed Coromandel Finfish Marine Farming Zone. Report of the Ministerial Advisory Panel. 25 February 2011. Ministry of Fisheries Unpublished Report. 56 p.

provided in Appendix IA, including consistency of approach with other consent holders in relation to addressing potential cumulative effects within the zone;

- “vii) the adequacy of the proposed marine mammal and bird interaction management plan, and disease management plan required under Appendix I of this Plan; and
- “viii) the adequacy of any development plan, including proposals for staged and/or adaptive development.

“Conditions will be imposed in respect of, but not limited to, the following matters:

- “i) Integrity of the structure and associated anchoring and mooring systems;
- “ii) Navigation lighting, buoyage and beaconage requirements;
- “iii) Provision of written notice to Land Information New Zealand and Maritime New Zealand;
- “iv) Provision of bonds or other suitable security in favour of Waikato Regional Council in respect of the likely costs of removal of the structure;
- “v) Removal of the structure on expiry of the consent (if no further consent has been applied for or granted);
- “vi) Provision of information to the Waikato Regional Council with respect to the final location of the structure;
- “vii) Environmental monitoring to be undertaken sufficient to demonstrate the environmental effects associated with the use of the structure;
- “viii) Reporting of stock escapes, measures taken to recapture escaped stock, and prevention of further escapes;
- “ix) Reporting of pest or disease outbreaks and measures taken to control them;
- “x) Interactions with or entanglements of marine mammals and seabird mortalities;
- “xi) Location of landing, loading and unloading activities associated with the operation of the marine farm;
- “xii) Adaptive management in order to address adverse effects on the environment, including measures such as, but not limited to, reducing production capacity or area of cages; and
- “xiii) Timing and purpose of reviews of any or all conditions in accordance with section 128 of the Resource Management Act 1991.

“Reasons for Adopting: Rule 16.5.5D provides for the establishment of fed aquaculture and multi-trophic aquaculture within the Coromandel marine farming zone given the provisions of Policy 6.1.1D. Consistent with Policies 6.1.1D and 6.1.4(i), tendering will be used to allocate space within the zone, and it is therefore a requirement that applicants under this Rule hold an authorisation to

apply for a coastal permit to occupy space. Applications for unfed shellfish farming that is not part of a multi-trophic proposal that includes fed aquaculture cannot be made within the Coromandel marine farming zone.

“16.5.5E Discharge of Feed, Medicines and Therapeutic Compounds Associated with Marine Farming within Coromandel Marine Farming Zone (Restricted Discretionary Activity)

“The discharge of any feed, medicine or therapeutic compound into the coastal marine area associated with marine farming activities located within the Coromandel marine farming zone, and any associated deposition of fish wastes, is a restricted discretionary activity provided it complies with the standards and terms stated in this Rule.

“Standards and Terms

- “i) The applicant holds or has applied for a consent under Rule 16.5.5D for the same farm site.
- “ii) The amount of net nitrogen and feed discharge authorised by the consent will be a proportion of the total allowed in the zone, equivalent to the proportion of the area of the zone that the proposed farm will occupy.
- “iii) The cumulative total net nitrogen discharge within the Coromandel marine farming zone shall not exceed 800 tonnes per year and the cumulative total feed discharge shall not exceed 13,600 tonnes per year.

“Extent of Discretion

“The matters to which the Waikato Regional Council will restrict the exercise of its discretion are:

- “• The extent to which the discharge is likely to cause the production of conspicuous oil, grease films, scums, foams, or floatable suspended materials.
- “• The ecological toxicity, persistence and bio-accumulations potential of any discharged compound or contaminants derived from them (individually and in combination) to any species potentially exposed.
- “• The effect of the discharge, and any contaminants derived from it, and any associated fish wastes (either by itself or in combination with other discharges) on aquatic life, kaimoana or on other marine farms.
- “• The effect of the discharge, and any contaminants derived from it, and any associated fish wastes on sediment quality and water quality, including colour, clarity and odour.
- “• The solubility of any discharged compound and contaminants derived from it.

- “• The extent to which adverse effects on water and sediment quality will impact on other activities, in particular marine farming.
- “• Demonstration that the volume and level of discharge has been minimised to the greatest extent possible.
- “• Mechanisms for modifying or changing the medicines or therapeutics to be used within the farm.
- “• The adequacy of the proposed disease management plan.
- “• The proposed adaptive management regime.
- “• The proposed environmental monitoring programme in relation to its ability to address the standards and terms of this Rule.
- “• Whether or not a consent has been granted under Rule 16.5.5D that relates to the same part of the coastal marine area.
- “• The consistency of the proposed activity with the objectives and policies of this Plan.
- “• The imposition of a condition relating to the review of any or all conditions.

“Conditions will be imposed in respect of, but not limited to, the following matters:

- “i) The staging of development consistent with Rule 16.5.8;
- “ii) The type, volume, rate and frequency of discharges of feed, medicinal or therapeutic compounds; and
- “iii) Timing and purpose of reviews of any or all conditions in accordance with section 128 of the Resource Management Act 1991.

“Principal Reasons for Adopting: Some types of marine farming involve the feeding of the stock and may require the use of therapeutic compounds and medicines to manage pests and diseases. Although the Coromandel marine farming zone is characterised by deep and well-flushed water, and is therefore considered an appropriate area for the establishment of fed aquaculture, it is still important that the potential effects of these discharges are assessed and, where appropriate, managed through the imposition of conditions.

“Fed aquaculture will result in increased deposition of faeces on the seafloor. Poor management will also result in excessive quantities of feed being deposited. This has the potential to smother benthic habitats and, in extreme cases, result in the seafloor in the vicinity of the marine farm becoming anoxic. The release of feed beyond the cages can also attract wild populations to the farm. The potential environmental effects associated with the discharge of marine farm feed therefore needs to be assessed and managed.

“Intensive marine farming is susceptible to the transmission of pests and diseases from wild populations. As well as affecting production, this can have animal health and welfare implications for the farm

stock and act as a reservoir for the re-infection of the wild population. If the infection cannot be managed by good farm husbandry, it may be appropriate to treat the farmed animals with medicines and other therapeutic compounds. The treatments used must be approved under other legislation relating to food safety and veterinary medicines. The potential environmental effects of the treatment and potential impacts on the receiving environment, including neighbouring marine farms, will require assessment through the consent process.

“The discharge of feed, medicine and therapeutic compounds raises additional matters that require assessment separately from the matters being considered in relation to the development and operation of the marine farm as a whole (as assessed under other rules in the Plan). This restricted discretionary rule provides for the consideration of these specific discharge matters.

“Advisory Notes:

- “• Any medicine or therapeutic compound must have been approved for use under the Agricultural Compounds and Veterinary Medicines Act 1997.

Rule 16.5.6

To omit “or 16.5.5B” (line 14 on page 220) and substitute “16.5.5B or 16.5.5D”.

To omit “Wilson’s” (lines 18 and 20 on page 220) and substitute in each case “Wilson”.

To add (line 20 on page 220) “or 16.5.5D (Marine Farm Structures within the Coromandel marine farming zone)”.

New Rule 16.5.6A

To omit “or 16.5.5C” (lines 30 and 31 on page 220) and substitute “, 16.5.5C, or 16.5.5E”.

To add (line 10 on page 221) “Discharges that would result in the total net discharge of nitrogen to the Coromandel marine farming zone from marine farming exceeding 800 tonnes per annum are also prohibited.”

To insert the following after line 10 on page 221:

New Rule 16.5.8

Insert after Rule 16.5.7:

“16.5.8 Staging of the Consents within the Coromandel Marine Farming Zone

“Resource consents for marine farming that involve fed and multi-trophic aquaculture in the Coromandel marine farming zone will include conditions requiring a staged development of the marine farm. Each resource consent will be divided into a series of stages.

“The staging of each consent will be relative to the limit specified in Policy 6.1.1B and proportional to the allocation provided to the

New Rule 16.5.8—*continued*

applicant under Method 17.5.2A. Stage 1 will allow discharge of up to 50% of the nitrogen and feed authorised by the discharge consent issued under Rule 16.5.5E. Stage 2 will allow discharge of up to 75% of the nitrogen and feed authorised by the consent. Stage 3 will allow discharge of up to 100% of the nitrogen and feed authorised by the consent.

“The first stage of each resource consent may not be exercised until a baseline survey is complete. Development to the next stage may not occur until permission is granted to do so by the Waikato Regional Council. The Council will not grant that permission until:

- “1. monitoring of a minimum of two production cycles at full development of that stage is complete;
- “2. the monitoring data has been analysed in comparison to pre-determined thresholds;
- “3. there are no significant adverse effects occurring including cumulative effects; and
- “4. compliance against resource consent conditions held for the marine farming activity has been assessed.

“**Principal Reasons for Adopting:** Fed aquaculture has not been carried out in the Waikato region prior to the establishment of the Coromandel marine farming zone. A staged approach assists in fulfilment of Policy 6.1.1B of this Plan.”

New Method 17.5.2A

Insert after Method 17.5.2:

“17.5.2A Allocation of Space within the Coromandel Marine Farming Zone

“Authorisations to apply for a resource consent within the Coromandel marine farming zone will be allocated in two ways, as settlement assets and by a weighted attribute tender process.

“The Waikato Regional Council will not allocate any of the Coromandel marine farming zone, until 20% of space within the zone has been declared by notice in the *Gazette* to be an aquaculture settlement area or areas under the Maori Commercial Aquaculture Claims Settlement Act 2004.

“The remaining space within the Coromandel marine farming zone will then be allocated to industry by weighted attribute tendering.

“The weighted attribute tender process will use criteria that will include, but are not limited to, the following:

- “1. The extent to which the tender proposal achieves the purpose of the Coromandel marine farming zone consistent with Policy 6.1.1D.

New Method 17.5.2A—*continued*

- “2. Promotion of the sustainable management of natural resources.
- “3. Contribution to the economic and social wellbeing of the region and country.
- “4. Environmental management practices of the applicant.
- “5. Monetary contribution.

“Authorisations are not transferable unless the authorisation is a settlement asset.

“**Principal Reasons for Adopting:** The Crown has an obligation under the Maori Commercial Aquaculture Claims Settlement Act 2004 to provide 20% of space in the Coromandel marine farming zone to Māori for settlement purposes, and has advised that it intends to declare a representative 20% of the zone to be an aquaculture settlement area or areas. This will prevent the Council from granting any authorisation to industry to apply for a resource consent within that space. The remaining space will be allocated by weighted attributes tendering. It is important that this space is used well and benefits accrue to the local, regional, and national economies and social wellbeing. For these reasons, the attributes used to select an appropriate applicant to carry out marine farming in the zone will be weighted towards those benefits. Obtaining an authorisation to apply does not guarantee the granting of a consent. The holder of an authorisation must complete the normal consent application process. An authorisation granted under this method cannot be transferred and will lapse after two (2) years (unless the authorisation is a settlement asset) if no consent application is lodged (refer to section 165R of the RMA). Any consent granted to the holder of an authorisation can be transferred, subject to any restriction imposed as a condition of the consent.”

Method 17.5.8

First paragraph in bullet point i): omit the first sentence and substitute “New farms located in the Wilson Bay and Coromandel marine farming zones shall be required to have a comprehensive lighting plan, which will light each area within the zone.”.

Second paragraph in first sentence: omit “marine farming zone” and substitute “and Coromandel marine farming zones”.

Appendix I

Omit “*Rule 16.5.5B*” (line 7 on page 224) and substitute “*Rules 16.5.4B, 16.5.5B, and 16.5.5D*”.

Omit “*Rule 16.5.5C*” (line 12 on page 224) and substitute “*Rules 16.5.4C, 16.5.5C, and 16.5.5E*”.

New Appendix IA

To omit “and species change” (lines 7 and 8 on page 225) and substitute “, species change and new marine farms”.

To omit lines 28 to 32 on page 225 and substitute the following:

- “• is required for an application for marine farming. Additional information to that described in this Schedule may be required depending on the type and scope of the aquaculture activity applied for.

To omit lines 9 and 10 on page 229.

Table 2 above columns 4 to 7: to omit “**Species change**” (pages 230 to 232) and substitute “**Species change and/or new marine farms**”.

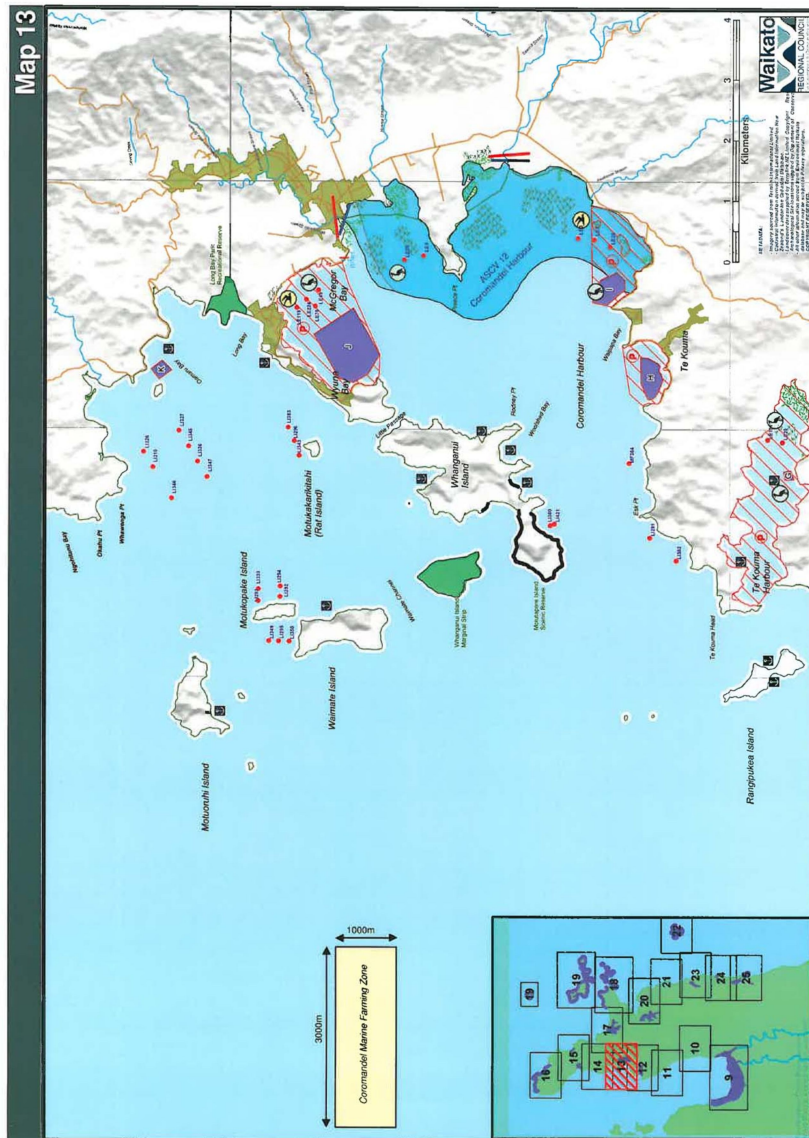
Appendix III

To insert (after line 1 on page 235):

Item relating to Schedules: Schedule 6: omit “Wilson’s Bay Marine Farming Zone” and substitute “Marine Farming Zones”.

To insert the following before line 3 on page 235:

Omit Map 13 and substitute the following map:



To omit the item relating to Schedule 6 (lines 3 to 6 on page 235 and lines 1 and 2 on page 236) and substitute the following:

Omit Schedule 6 and substitute:

“Schedule 6: Marine Farming Zones

“Wilson Bay Marine Farming Zone Farmed Areas:

- “Area A contains 470 farmed hectares
- “Area B contains 520 farmed hectares
- “Area C contains 90 farmed hectares
- “Current farmed area is 220 hectares
- “Total available zone is 1,210 hectares

“Wilson Bay Marine Farming Zone Corner Point Co-ordinates:

	WGS84 Datum		NZ Map Grid 1949 Datum	
c	175:24.2934 E	36:53.8045 S	2724703	6475463
d	175:26.6558 E	36:56.2858 S	2728084	6470779
e	175:23.8260 E	36:58.0211 S	2723797	6467686
f1	175:21.6381 E	36:55.7217 S	2720665	6472025
f2	175:21.5197 E	36:55.5057 S	2720500	6472429

“History of the Establishment of the Wilson Bay Marine Farming Zone

“Pursuant to section 36(1) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, the Wilson Bay Marine Farming Zone was declared an interim Aquaculture Management Area in February 2008. The Chief Executive of the Ministry of Fisheries subsequently made a determination that the interim Aquaculture Management Area does not have an undue adverse effect on fishing or the sustainability of fisheries resources. A copy of that decision is available on request from Waikato Regional Council.

“Coromandel Marine Farming Zone Farmed Area:

“Total available zone is 300 hectares

“Coromandel Marine Farming Zone Corner Point Co-ordinates:”

	WGS84 Datum		NZ Map Grid 1949 Datum	
a	175 21 32.051 E	36 45 50.153 S	2721001	6490307
b	175 21 33.045 E	36 46 22.579 S	2720998	6489307
c	175 19 32.123 E	36 46 24.961 S	2717999	6489313
d	175 19 31.144 E	36 45 52.534 S	2718001	6490313

Explanatory note

This Supplementary Order Paper makes a number of drafting, technical, and significant amendments to the Aquaculture Legislation Amendment Bill (No 3).

Commencement

The original commencement date of 1 July 2011 in *clause 2(2)* has now passed. A new commencement date of 1 October 2011 is substituted. Two other amendments are made to the commencement clause. First, the deferred commencement of *clause 69(3)* has been extended to the whole of that clause. Second,

a new subclause has been inserted to bring *new clause 52(2)* into force on the day on which the Bill receives the Royal assent. This will authorise the advance exercise of the Ministerial power to issue *Gazette* notices declaring space in the coastal marine area to be an aquaculture settlement area for the purposes of meeting the Crown's obligations under the substituted obligations in *Part 3* of the Bill, which amends the Maori Commercial Aquaculture Claims Settlement Act 2004.

The more significant amendments made by this Supplementary Order Paper are summarised below under the same Part headings and in the same order as they appear in the Bill.

Part 1

Amendments to Aquaculture Reform (Repeals and Transitional Provisions) Act 2004

Clause 9A, which provides for the continuation of Marine Farming Permit 364 for the Waikato Communal Area, is amended to insert an expiry date of 31 December 2033.

New clauses 19A, 19B, and 19C are inserted.

New clause 19A provides that aquaculture decisions for interim aquaculture areas made after the Bill is passed must be made in accordance with the principal Act as amended by the Bill, whether the request for the decision was made before or after the commencement of the Bill and whether the decision is made as a result of proceedings in relation to an aquaculture decision made before the commencement of the Bill.

New clause 19B amends section 43 of the principal Act to reduce the period for lodging judicial review proceedings of an aquaculture decision from 3 months to 30 working days.

New clause 19C inserts *new section 43A* into the principal Act, which specifies the circumstances in which a person may apply, after the commencement of the Bill, for a coastal permit to occupy space in an interim aquaculture management area for the purpose of aquaculture activities.

Clause 21 is amended to insert *new section 44O* which applies to space in the coastal marine in the region of the Waikato Regional Council that is a *Gazetted* aquaculture area under *new section 44M* and in respect of which the Council has not identified 20% of the space for allocation to the trustee under the Maori Commercial Aquaculture Claims Settlement Act 2004 as it was before the commencement of the Bill. This clause applies *new sections 44B to 44E* as inserted by *clause 21* which provides a process for the allocation of authorisations to the trustee under the Maori Fisheries Act 2004 in respect of 20% of any space in an interim aquaculture management area in respect of which the chief executive has made a determination or a reservation relating to commercial fishing for stocks subject to the quota management system.

Clause 23 is amended so that certain pending applications at the close of the moratorium are not to be processed until 1 January 2015 unless an applicant re-

quests the consent authority to resume processing the application and processing of earlier applications has resumed or the earlier applications have been withdrawn. The applications concerned are the applications specified in a *new Schedule 3* inserted by *Schedule 1* of the Bill.

The other sections inserted by *clause 23* are amended to deal with the application of certain provisions in the Resource Management Act 1991, particularly the provision of information requested by a consent authority under section 92 of the Resource Management Act 1991.

Part 2

Amendments to Fisheries Act 1996

A *new clause 36* is substituted about the requirements for an aquaculture decision. The new clause carries forward the amendment in the Bill but substitutes different notification requirements. These are that the fact that a decision has been made must be notified in the *Gazette* and made accessible via the Internet. The notification must specify where a copy of the aquaculture decision can be obtained.

Clauses 38(1), 41, 43(2), and 45(2) are consequentially amended.

Part 3

Amendments to Maori Commercial Aquaculture Claims Settlement Act 2004

New clause 51A inserts *new section 6A* into the principal Act to clarify the relationship between the principal Act and the Marine and Coastal Area (Takutai Moana) Act 2011. Nothing done under or for the purposes of the principal Act is to be taken into account in determining, under subpart 3 of Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011, whether customary marine title exists in a specified area of the common marine and coastal area.

New clause 52 repeals sections 7 to 16 substitutes *new sections 7 to 16A* which set out the Crown's obligations to provide for, and transfer to the trustee under the principal Act, settlement assets that are representative of 20% of new space.

New section 9 specifies 3 ways in which the Crown can meet its obligations—

- by providing authorisations to apply to occupy space in the coastal marine area for the purpose of aquaculture activities:
- by paying the financial equivalent of that space:
- by entering into regional agreement.

New sections 10 and 11 provide for regional agreements. *New section 11* specifies different periods of time in respect of different regions within which the Crown must use its best endeavours to enter into regional agreements. The Minister under the principal Act may, subject to certain criteria, extend a period for entering into a regional agreement. If, at the end of a specified period, there is no regional agreement, the Crown must provide authorisations to the trustee and, if there are insufficient authorisations available, pay the difference to the trustee.

New section 12 provides for the Minister, by notice in the *Gazette*, to declare space in the coastal marine area to be an aquaculture settlement area required to meet its obligations under *section 9*. The consequence of this is that under *new section 165C* of the Resource Management Act 1991 (inserted later by this Supplementary Order Paper) coastal permits for aquaculture activities may be obtained only by a person who is the holder of an authorisation that was allocated to the trustee under *new section 13*.

New section 13 provides for the Minister to direct the relevant regional council to provide authorisations to the trustee for aquaculture activities in an aquaculture settlement area.

New section 14 requires the Minister to prepare a plan about the progress being made by the Crown in meeting its obligations under *new section 9*. The Minister must have started preparing the plan by 31 December 2012.

New sections 15 and 16 provide for the regular review of the plan prepared under *new section 14* and for the Crown's response to a review of the plan.

New section 16A disappplies, in relation to settlement assets, the general rule about when authorisations lapse in *new section 165R*, as inserted by *clause 90* of the Bill, and substitutes different rules relating to whether an application for a resource consent for aquaculture activities is declined, or cancelled because of a reservation by the chief executive under the Fisheries Act 1996, or transferred and ceases to be a settlement asset.

The remaining amendments in this Supplementary Order Paper that relate to *Part 3* of the Bill provide a simplified process for a new iwi aquaculture organisation to become the successor to an existing iwi aquaculture organisation (*new clause 57A*), make complementary amendments to provisions relating to the Maori Commercial Aquaculture Settlement Trust and its trustees (*new clauses 57B and 57C*), make amendments about boundaries and boundary changes in relation to the allocation of assets to iwi of a region (*clause 58*), and widen the exception to the restriction in *section 50* about the transfer of authorisations or coastal permits.

Part 4

Amendments to Resource Management Act 1991

A number of amendments in this Supplementary Order Paper to *Part 4* of the Bill are complementary to amendments relating to *Parts 1 and 3* of the Bill especially *new section 165C*.

However, the vast majority of amendments in this Part of the Supplementary Order provide for, and relate to, *new clause 94A* which inserts *new subpart 4* of *Part 7A* of the principal Act (*new sections 165ZK to 165ZZA*) to provide for plan change requests and concurrent applications for coastal permits in relation to aquaculture activities.

Section 87A(6) of the principal Act precludes an application for, and the grant of, a resource consent for an activity that is a prohibited activity. *New subpart 4* is an exception to this and provides for a plan change request in relation to prohibited

aquaculture activities and an application for a coastal permit for aquaculture activities to be processed together.

New subpart 4 contains long, technical, and complex provisions about how plan change requests and their concurrent applications are to be processed. There are also a series of earlier amendments, especially *new clauses 88A to 88G*, which provide how the Environmental Protection Authority is to deal with plan change requests and their concurrent applications.

An important difference is that if the request and application are made to a regional council, they can be both made at the same time or the plan change request can be made first, followed by the concurrent application if the plan change request is accepted. However, if the plan change request and its concurrent application are made to the Environment Protection Authority, they must be made together (see *new clause 88A*).

New section 165ZK contains a significant limitation which is that *new subpart 4* applies only in relation to a rule in a regional coastal plan that, at the commencement of the clause that inserts *new subpart 4* provides an aquaculture activity is a prohibited activity, and the rule is still operative when the plan change request is made.

Schedules

Schedule 1 is amended to insert *new Schedule 3* for the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, which lists the deferred applications for the purposes of *new section 47* inserted by *clause 23* of the Bill and amended earlier by this Supplementary Order Paper.

Schedule 3 which amends the Waikato Regional Council's regional coastal plan, is amended to establish a new 300 ha marine farming zone off Coromandel and to make related changes.
