Regulatory Impact Statement: Extending the duration of existing marine farm consents

Coversheet

Purpose of Document	
Decision sought:	*Approval to amend the Resource Management Act 1991 (RMA)*
Advising agencies:	*Ministry for the Environment, Ministry for Primary Industries*
Proposing Ministers:	*Minister Responsible for RMA Reform, Minister for Oceans and Fisheries*
Date finalised:	*04 April 2024*

Executive Summary

The coalition Government is taking a three-phase approach to reforming the resource management system. The changes assessed in this Regulatory Impact Statement fit into the second of these phases "targeted legislative changes to the Resource Management Act 1991 (RMA) in 2024" [CAB-24-MIN-0069 refers].

Ministers' and Cabinet direction on commitments within the coalition agreements have shaped policy options and direction on delivering longer durations for marine farming permits.

This, as well as the pace of reform, has directed the scope of regulatory amendments, and consequently limited the Ministries' ability to explore all feasible options. The analysis is limited, with a focus on the impacts of the narrow context of each option.

Background

Marine farms need a resource consent in order to operate. The key purpose of the consenting regime under the RMA is the sustainable management of natural and physical resources, including to ensure sustainable use and protection. To manage any adverse effects, consents may include conditions imposed by consent authorities. The current statutory maximum duration for marine farm consents is 35 years, after which replacement consents will need to be obtained.

Aquaculture is a growing industry in New Zealand that contributes to regional and national economic prosperity and is an important, sustainable food source. The Government has identified aquaculture growth as a priority. Industry has indicated that reconsenting processes are creating a significant regulatory burden that is presenting a barrier to growth, due to the costs and resourcing required to prepare and process replacement consents.

Additionally, industry has raised that uncertainty around the reconsenting process and continuity of operation for consent holders is reducing investment confidence. The National Environmental Standards for Marine Aquaculture (NES-MA) have been found to be effective at streamlining reconsenting, but are relatively new, and some consent holders have yet to go through reconsenting under the RMA framework. Additionally, reconsenting

is happening in the context of regulatory changes to regional plans and proposed wider resource management reform.

The Government has committed to delivering longer durations for marine farm consents. The Minister for Oceans and Fisheries is proposing to extend the duration of existing marine farm consents by 25 years.

There is some urgency in delivering the longer durations, as around 300 marine farms have their consents expiring at the end of 2024. These farms will need to apply for reconsenting soon.

Treaty impact analysis

Treaty implications of options have been identified throughout the analysis. A more detailed analysis is appended as Appendix 2A. We note that the short timeframes for consultation have constrained the depth and fullness of analysis.

Recommendation

The proposal needs to balance:

- supporting sector and economic growth, including through avoiding unnecessary regulatory burden with
- achieving the sustainable management and protection of resources.

A range of monetary and non-monetary benefits are likely to accrue to consent holders as a result of extending consents, meanwhile extending consents is likely to have some costs to the environment and sustainable management of resources. These benefits and costs cannot be quantified or validated based on the current information and data, and unintended consequences cannot be ruled out. This, along with compressed timeframes, means officials have not recommended an option.

However, officials consider that options three and four are likely to best deliver on the Government's goals and are relatively similar in terms of net benefits and delivery of the policy objectives. Including exclusion options A or B into options three and four would improve the outcomes sought. Officials consider that the status quo is working efficiently and effectively and provides for better environmental and Treaty outcomes than the other options.

Summary of feedback received during targeted engagement

There has not been an opportunity for wide consultation and engagement on the proposal to extend marine consents due to the short timeframes to deliver the policy. Officials have undertaken targeted engagement on the proposal with industry peak bodies, consenting authorities, Treaty partners including Iwi Aquaculture Organisations (IAOs) and PSGEs, Te Ohu Kaimoana, and ENGOs. Appendix Two provides the full Treaty impact analysis and a list of stakeholders and Māori who participated in consultation on the proposals.

Industry was supportive of the proposal and considered that it would remove uncertainty for business and increase financial and investment confidence. It would allow the refocusing of assets and resources towards on-farm innovation and productivity, away from costs associated with hearings and consents. Industry noted that it is important they can make changes or adaptations to consent conditions over time, such as to species farmed.

Māori who were consulted were strongly opposed to the proposal, with the exception of one iwi who are involved in aquaculture and supported the extension. Reasons cited included the inability to review and adjust consent conditions, which, for example, means that the conditions cannot adapt to respond to a changing climate, nor monitor environmental impacts including depleting fish stocks. They were also concerned that there is a lack of balance between commercial and other interests including environmental, cultural, and public interests. This will limit Māori in their role as kaitiaki and protecting and preserving their area of interest. In addition, there are implications for the Crown's Treaty-related obligations, including providing Māori the ability to protect their lands, fisheries and other property. Iwi considered that the engagement and consultation process was inadequate.

Regional consenting authorities (councils) and ENGOS were opposed to the proposal, with ENGOs also expressing concern with the lack of adequate consultation. Councils and ENGOs were concerned that the proposal would override council and community-agreed plans to provide for aquaculture. Councils noted the NES-MA is working efficiently and effectively for replacement consenting, and some regional councils feel their plans limit the risk of court appeals. Councils and ENGOS were concerned that the proposal would lock in sub-standard and/or timebound consent conditions for an additional 25 years; removing the ability to monitor environmental effects, ensure appropriate biosecurity conditions, or adapt to a changing climate. There were particular concerns raised around consents that had been brought into the RMA without a review of their conditions.

Limitations and Constraints on Analysis

The analysis in this RIS is limited by:

- *Previous Cabinet decisions, Ministerial decisions, and Government commitments:* These commitments are a key driver and have been supported by various Cabinet and Ministerial decisions as the policy problems and options have been developed.
- *Pace of reform:* the Government has agreed to make these policy changes via a Bill and intends that it is enacted by the end of the year. This timeframe has limited the identification of options, level of analysis, collation and review of evidence, and engagement with iwi/Māori and stakeholders.
- *Data and evidence on the impact:* officials have limited information about the extent (identify and quantify) of the problem as well as understanding the impact of the options. The ability to gain additional insights was further restricted by the timeframe available for engagement. Limited levels of engagement have occurred to date and consequently feedback from stakeholders, Treaty partners, and councils is also limited at this point.

Responsible Manager(s) (completed by relevant manager)

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03/04/2024

Quality Assurance (completed by QA panel)	
Reviewing Agency:	Ministry for the Environment and the Ministry for Primary Industries
Panel Assessment & Comment:	A quality assurance panel with members from the Ministry for the Environment and the Ministry for Primary Industries has reviewed the Regulatory Impact Statement. The panel considers that it **partially meets** the Quality Assurance criteria. The Regulatory Impact Statement, within the context it is written in, has provided a near complete impact analysis which is clear and concise. While the analysis is balanced, due to the limited time, it could not provide robust evidence to provide a complete analysis of likely impacts. Consultation was limited and stakeholders were not given sufficient time, or a full range of options to consider. The monitoring section is insufficient. We are unconvinced that the proposal for post-implementation monitoring of likely impacts is feasible.

Section 1: Diagnosing the policy problem

What is the context being the policy problem or opportunity and how is the status quo expected to develop?

1. The resource management system governs how people interact with natural resources, with the RMA regulating land use, the use of natural resources, and the provision of infrastructure.

Drivers for change

2. In December 2023, the Government commenced its reform of the resource management system with the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act, which repealed the Natural and Built Environment Act and the Spatial Planning Act.
3. The proposals in this RIS form part of this approach and provide for targeted legislative amendments to the RMA. The changes support the delivery of the Government's priority to deliver longer durations for marine farming permits and remove regulations that impede the productivity and enormous potential of the seafood sector[1].
4. Ministers' and Cabinet direction on the above commitments have limited and set the scope for policy options and direction. This, as well as the pace of reform, has limited this RIS, which is an analysis of the options with a focus on the impacts of each option.

Scope of the Bill and consideration of options

5. This RIS is an analysis of the impacts some of the proposals to be included within the Bill. This Bill seeks to make targeted legislative amendments to the RMA, by the end of 2024.
6. The scope of options evaluated has been influenced by Cabinet decisions and the desired pace for regulatory intervention. In particular, the Government's priority to

   deliver longer consent durations for existing marine farming permits.[2]

Aquaculture sector and consenting

7. Broadly, there is uncertainty around whether new consents will be granted, and this uncertainty is having a negative impact on business confidence. There are approximately 1,200 marine farming consents, of which around 300 are expected to expire by the end of 2024, options to ensure that those consents and all other marine farming continues to operate have been sought by the Minister of Oceans and Fisheries .
8. The aquaculture sector contributes $763 million annually to Aotearoa New Zealand's economy, employing 3,300 people across New Zealand.
9. Marine farmers will need to submit their consent applications at least six months before expiry, unless agreed by councils, to ensure that they can continue to operate past the expiry of their consent if e new consent has not been decided by that time. The cost of reconsenting a marine farm can be up to $100,000 per site. Regardless of the option chosen, those marine farmers with consents expiring by the end of 2024 will need to lodge their applications by June 2024 to ensure operational continuity.

1 Ibid

2 Coalition Agreement – New Zealand National Party and New Zealand First Party.

10. The consenting process is burdensome on industry and expensive. This burden on industry and councils could be remedied to enable timely and efficient consent renewals that is cost effective for industry.

11. Some of the consents that are due to expire are of strategic importance to the industry, such as an important spat location in Tasman. This site provides up to 50% of the spat used in the top of the South Island, contributing to approximately $125 million in value.

12. Without consent extensions, councils are likely to face an influx of consent applications which are time consuming and can take at least six months to process. However, there are provisions in the RMA to enable councils to extend the consent duration while an application is being considered.

13. The advantage of the status quo is that consents that have been carried forward in the past are able to be reassessed and brought into the existing resource management system, meet the latest environmental standards, and involve iwi/Māori in the consenting process. However, this comes at a financial cost to the sector.

14. While the regulatory environment is complex and hard to navigate, recent changes to the NES-MA has made the consenting process simpler and more streamlined for marine farmers to navigate. The review of the New Zealand Coastal Policy Statement is likely to further provide certainty for the sector when applying for consents.

15. To deliver on the Government's coalition agreements, the Minister of Oceans and Fisheries is considering an extension of all marine farming consents by 25 years to remedy the concerns raised by industry.

What is the policy problem or opportunity?

16. In coalition agreement between New Zealand First and the National Party, the coalition Government agreed to deliver longer durations for marine farming permits and remove regulations that impede the productivity and enormous potential of the seafood sector. The proposals in this RIS support the delivery of this commitment.

What objectives are sought in relation to the policy problem?

17. The policy objectives are to:

    a. reduce costs to consent applicants
    b. remove the regulatory burden on applicants and consenting authorities
    c. improve productivity and support the sector to grow
    d. promote the sustainable management of natural and physical resources
    e. provide certainty for industry and consent authorities
    f. ensure the Crown is upholding its Treaty of Waitangi obligations.

Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

18. The criteria below were used to assess whether the option will achieve the policy objectives:

Table 1: Evaluaton criteria

Criteria	Explanation
Reduce the regulatory burden on applicants and consenting authorities	Does the option improve the business environment for the aquaculture industry? Does the option improve business confidence and promote investment?

Promote the sustainable management of natural and physical resources	Does the proposal uphold the functions of consent authorities to manage marine farming through resource consenting?
Provides certainty for industry and consent authorities	Does the option provide a clear and unambiguous regulatory framework for marine farming consent applicants?
Upholds the Crowns Treaty of Waitangi obligations	Is the option consistent with Treaty settlements and specific obligations? Does the option support Māori participation in decision-making? Does the option support Māori aspirations?
Effective	Does the option provide fewer information requirements for consent applications?
Efficient	Does the option reduce costs for consent applicants?

Feedback received during targeted engagement

19. Informal engagement commenced in December 2023 with a targeted group of stakeholders, including local Government, industry, and other Government agency representatives.

20. Targeted engagement, specific to the options outlined in this RIS commenced on 26 February 2024 with PSGE, Te Ohu Kaimoana, IAOs, ENGOs, industry, and councils.

21. A summary of written and verbal feedback received during engagement is provided below.

Iwi/Māori

22. Iwi/Māori who were consulted were strongly opposed to the proposal, with the exception of one iwi who are involved in aquaculture and supported the extension.

23. Iwi/Māori considered that the consultation process was inadequate. Iwi expressed that the Crown has not engaged in good faith, which does not align with the Legislative Design Advice Committee Guidelines and the Cabinet manual.

24. Furthermore, based on iwi feedback, there is concern that the consultation process has not yet upheld existing protocols and consequently is not honouring existing settlements.

25. Additionally, there were concerns that the shortened process did not allow enough time for Māori to fully consider the proposal and provide feedback. This means that there may not be sufficient information to assess and determine the full implications of the proposal on settlement and broader Māori rights and interests. Given this, there are risks that the proposal may not align with existing Crown obligations.

26. Many iwi were concerned about the potential environmental impacts of the proposal, given extending consents would remove the ability for iwi to participate in consenting processes to review and adjust consent conditions. For example, there were concerns that this could mean that the consent conditions cannot adapt to respond to a changing climate, nor monitor environmental impacts including depleting fish stocks.

27. They were also concerned that there is a lack of balance between commercial and other interests including environmental, cultural, and public interests. Some expressed

that this would limit Māori in their role as kaitiaki and protecting and preserving their area of interest.

28. In addition, there are implications for Treaty-related obligations including providing iwi and Māori the ability to protect their lands, fisheries, and other property. Full Treaty analysis is included in Appendix Two.

Aquaculture sector stakeholders

29. Industry was supportive of the proposal and considered that it would remove uncertainty for business and increase financial and investment confidence.

30. Some stated that an extension would allow the refocusing of assets and resources towards on-farm innovation and productivity, away from costs associated with hearings and consents. Industry noted that it is important they can make changes or adaptations to consent conditions over time, such as to species farmed.

Councils and ENGOs

31. Councils and ENGOS were opposed to the proposal, with ENGOs also expressing concern that the consultation was inadequate. Councils and ENGOs were concerned that the proposal would override council and community-agreed plans to provide for aquaculture.

32. Councils considered that the NES-MA are working efficiently and effectively for reconsenting consenting, and some councils feel their plans limit the risk of court appeals. Consequently, they have considered that an extension of consents is unnecessary.

33. Councils and ENGOS were concerned the proposal would lock in sub-standard and/or timebound consent conditions for additional 25 years, excluding the ability to adjust to environmental effects, ensure appropriate biosecurity conditions, or adapt to a changing climate. There were particular concerns raised around consents that had been brought into the RMA without a review of their conditions and the environmental impact that extending these consents could have.

What scope will options be considered within?

34. The scope of feasible options has been limited by Ministerial direction, and the options reflect this.

35. There is limited scope for the feedback from iwi/Māori to be incorporated into the proposal in a manner that has been considered acceptable by the courts for the Crown to meet its Treaty of Waitangi obligations. Iwi/Māori were concerned that as they would not have the opportunity to be consulted on consent renewal that this would be a breach of their Treaty of Waitangi rights and the Crown's commitments in their individual Treaty settlements. Officials have included Treaty of Waitangi obligations and Treaty settlement commitments as part of the criteria to assess each option.

36. Feedback from industry supports the need to have an efficient consenting system which has been included in the assessment criteria.

37. Feedback from local government and ENGOs around the regulatory burden and environmental considerations has also been built into the assessment criteria.

What options are being considered?

38. Four options were considered alongside the status quo. Under all options:

- the proposal will only apply to existing marine farms with valid consents
- the proposal will apply to all relevant RMA consents held for the particular farm

- the impacts will be one-off as what is proposed is a one-time extension to existing marine farms consent durations.

Option One – Status quo

39. Under this option marine farm consent holders would need to apply for reconsenting consents prior to them expiring. Marine farmers whose consents are expiring prior to 2025 are likely already in the process of applying for new consents under the RMA. This would be the standard approach for all activities under the RMA.

40. National direction such as the NES-MA and New Zealand Coastal Policy Statement would apply to the reconsenting process, officials accept that the status quo would result in iwi participation and environmental benefits.

Key benefits of the status quo

- consent applications would be balanced with environmental considerations
- iwi/Māori would be consulted through the consenting process
- location of marine farms would be reconfirmed
- enable realignment of existing marine farms to improve environmental and operational outcomes
- businesses are familiar with the RMA requirements
- the recent review of the NES-MA has been found to be meeting its objectives
- promotes sustainable management.

Key costs form the status quo

- business would have to pay for reapplying
- business would be required to spend time and resources in the reapplication process
- councils would face an influx of consent applications from approximately 300 consent holders.

Feedback from stakeholders, iwi/ Māori and industry on the status quo

41. This option had the most support from all stakeholder groups except industry representatives:

- Consenting authorities preferred the status quo, considering that this option best avoids the risks of an extension, including the risk of locking in sub-standard and/or timebound consent conditions. The status quo would support council and community-agreed planning for their regions, including managing the impacts of climate change and ensuring appropriate biosecurity conditions are in place.
- ENGOs also preferred the status quo, considering that it best enables environmental and community interests.
- Most Treaty partners strongly support the status quo as they considered it best:
    - upholds Treaty settlements and Crown obligations
    - protects the ability for iwi and hapū to express kaitiakitanga
    - supports Māori involvement in RMA decision-making processes
    - facilitates adjustments to consent conditions to adapt to environmental impacts, and
    - prioritises environmental, cultural, and public interests over commercial interests.

Option Two – extend consents by five years for those expiring in 2024

42. Under this option, consents expiring in 2024 would be extended by five years to enable councils and industry time to get their applications and processes in order to process the large number of consents that are due to expire in 2024/25. It is anticipated this will be around 300 consents. The extension would be automatic and would not require the consent holder to reapply.

43. This would not be the first time that marine farming consents have been extended. Some consents were extended by legislation in 2004 when permits previously granted under pre-RMA legislation were grand-parented into the RMA. This concern applies to all extension options, however its effects are better managed when choosing a shorter extension timeframe.

Key benefits to extending consents by five years

- reduces the regulatory burden for a short period of time, which would enable wider Government reforms to be completed and enable Councils time to update their plans
- would provide certainty to industry for a period of five years which can further enable marine farmers time to prepare consent applications
- is effective and efficient as consents are automatically carried over.

Key costs of extending consents by five years

- consent applications would not balance environmental considerations with economic prosperity
- the number of consents requiring local authorities to process at one time will increase
- does not include regional planning processes that have been undertaken or where plans have been updated
- iwi/Māori would not be consulted through the reconsenting process
- does not promote sustainable management under the RMA.

Feedback from stakeholders, iwi/ Māori and industry on the status quo

44. This option was not tested with stakeholders, iwi or the industry, however based on the options tested it is likely industry would not be supportive of this option as it does not provide the length of time sought. Other than the status quo this option is likely to be preferrable to the other options in the RIS for Treaty partners, councils and ENGOs as this only applies to consents expiring in 2024 and for a shorter period of time.

Option Three – extend all consents by 15 years

45. This option would extend all existing marine farm consent durations by an additional 15 years. This would be a one-off extension and would apply to all RMA consents needed to operate the marine farm. The extension would apply automatically and would not require an application from the consent holder. The extension will also apply where a consent holder has applied for reconsenting but is awaiting an outcome.

Key benefits of extending consents by 15 years (same as option two plus)

- improves business confidence more than a shorter extension
- improves the investment environment and may result in more investment to upgrade existing aquaculture infrastructure

- a longer duration could result in some marine farms expanding their operations into previously consented but undeveloped space
- resource savings from councils as they wouldn't have to process consents
- reduces immediate compliance costs for industry.

Key costs of extending consents by 15 years (same as option two plus)

- consent renewals are an opportunity for consent holders to make changes to their conditions, they will not have the opportunity to do this under this option
- consent conditions may be in conflict with the future business model of the marine farm
- councils would have an influx of consents at the time of expiry.

Te Tiriti o Waitangi / Treaty of Waitangi considerations

46. This option does not meet the criteria of consistency with Te Tiriti. In the timeframes for policy development and engagement available, officials have not been able to gather sufficient information to enable in depth assessment and determination of the full implications of the proposal on settlement and broader Māori rights and interests. Given this, there are risks that this option may not align with existing Crown obligations.

Feedback from stakeholders, iwi/ Māori and industry on the option three

47. Officials did not seek explicit feedback on a consent extension of 15 years, however consider that the implications on affected parties are similar to those tested for 25 years.
48. Extending consents by 15 years will bypass opportunities for affected iwi and hapū to influence reconsenting. This includes whether consents are extended and if so, what new conditions are put in place.
49. The extent to which tangata whenua are involved in reconsenting processes for aquaculture varies around the country. Processes involving tangata whenua that would be bypassed by the extension include:
    a. mandatory notification requirements under section 95B of the RMA (for affected protected customary rights groups, affected customary marine title groups, and affected holders of statutory acknowledgements); and
    b. pre-application engagements with tangata whenua provided for by the NES-MA.
50. All but one Treaty partner would likely oppose the proposal to extend marine consents by 15 years. Reasons would likely include that it:
    - impinges on Treaty settlements and Crown obligations
    - reduces Māori involvement in RMA decision-making processes
    - doesn't enable adjustments to consent conditions to adapt to environmental impacts
    - favours commercial interests over environmental, cultural, and public interests.
51. One IAO, who is involved in aquaculture, supports the proposal to extend marine by 25 years, and is likely to also support a proposal to extend consents by 15 years. They noted that as a Māori aquaculture business, they operate within a Te Ao Māori framework, considering the impacts and protection of the environment, water and fisheries within the marine farm. Their support for the extended consent is within the

context of their approach as kaitiaki providing for the protection of their rohe from over-fishing and degradation.

52. Industry would consider that this option would allow them to focus resources on addressing issues critical to the ongoing viability of the industry, including securing spat supply. Industry would consider that this option would free up resources currently focused on costly consenting processes and court hearings and would support industry to progress innovative farming, including open ocean salmon farming. This option would give greater certainty and support the industry to grow, create new jobs, support regional economies, and deliver export revenue efficiently.

53. Consenting authorities would consider this option would lock in sub-standard and/or timebound consent conditions for another 15 years and it would be difficult and costly to review/update conditions to address environmental effects and adapt to climate change. Councils would also consider that this option would override council and community agreed planning for their regions.

54. ENGOs would similarly consider this option would lock in sub-standard and/or timebound consent conditions, increase the risk of damage to the environment, and would override council and community agreed planning for their regions.

55. Te Ohu Kaimoana would consider that if the proposal is progressed, farms should be required to meet existing environmental standards, farmers should be supported to adapt to climate change, and the proposal would not negatively impact customary rights.

Option four – *extend all consents by 25 years*

56. This is the option that officials from the Ministry for Primary Industries consulted on. This option is the same as options two and three but with a longer time frame, as it would extend existing marine farm consent durations by 25 years. As with options two and three, this would be a one-off extension and would apply to all RMA consents needed to operate the marine farm. The extension would apply automatically and would not require an application from the consent holder.

57. The benefits and risks of this option are the same as option two and three but would prolong the impacts for an additional 10 years to those options, including both the potential positive and negative impacts. 25 years is equivalent to a full consent duration (which can be between 20 and 35 years).

Key benefits of extending consents by 25 years (same as option two and three, plus)

- greatly improves business confidence more than a shorter extension
- greatly improves the investment environment and may result in more investment to upgrade existing aquaculture infrastructure
- councils would not have an influx of consents in the immediate term
- significantly reduces immediate compliance costs for industry.

Key costs of extending consents by 25 years (same as option two and three, plus)

- creates a long-term precedent for consents being extended beyond maximum terms in the RMA
- substantially delays iwi, ENGOs and community involvement in the reconsenting process.
- substantially delays reviews on consent conditions.

58. As with option two and three, there is insufficient evidence to quantify the size of the risks associated with an extension of this length. Officials note that this extension would

mean that the vast majority of consent durations will be longer than 45 years, with some consents (that were brought into the RMA and extended in 2004) potentially not having been reviewed or conditions updated for over 50 years. While as noted under options two and three there is no clear evidence that these farms are having worse environmental impacts than others under the RMA; this is a considerable length of time to go without reconsenting, particularly given environmental changes. This raises the risk of unintended consequences.

59. This option would be efficient to implement, as it simply extends all consents.

Te Tiriti o Waitangi / Treaty of Waitangi considerations

60. In addition to paragraphs 117-122, extending consents by 25 years will bypass opportunities for affected iwi and hapū to influence reconsenting. This includes whether consents are extended and if so, what new conditions are put in place.

Feedback from stakeholders, Iwi/ Māori and industry on the option to extend all consent by 25 years

61. Officials sought and obtained feedback from iwi/Māori, industry and ENGOs on this option, the feedback is contained in paragraphs 118-126.

Option Five – extend all consents to 2050

62. Under this option, all consents would be extended out to 2050, regardless of their existing consent duration. This option would also mean that the length of extension was different for all consents. For example, a consent currently expiring in 2030 would get a 20 year extension, whereas a consent expiring in 2040 would get a 10 year extension.

Key benefits and costs of extending consents by 25 years (similar to options two, three, and four)

- reduces the regulatory burden for consent holders but would create a bottleneck at 2050.

Te Tiriti o Waitangi / Treaty of Waitangi considerations

63. Officials consider the same Treaty implications outlined in paragraphs 117-122 would apply to this option.

Feedback from stakeholders, iwi/ Māori and industry on the option to extend all consent to 2050

64. Officials did not test this option but consider the same feedback would apply to extending consents by 25 years as noted in paragraphs 118-126.

Exclusion of certain consents from extension

65. The below could be included to any of the options discussed in this RIS. Some of the risks related to extending marine consents (as under options two, three and four) can be managed through excluding some consents. We have assessed two options for exclusions that may address these risks.

Option A – Exclude consents from extension where they are identified as being in inappropriate areas

66. Under this option most consents would be extended (either options, two, three, four or five), but excluding consents that have been identified as being in inappropriate areas[3].

67. The exclusion would only apply for consents where the farm has been identified as being wholly in an inappropriate area. This has been proposed as a clear case where the whole farm would need to be relocated. All other consents would be extended.

68. This would only exclude a small number of farms in Marlborough[4], where around 38 farms have been identified by planning processes as being in areas inappropriate for aquaculture activities and needing to wholly relocate.

Key benefits of this option

- may improve the performance of all options other than the status quo.
- reduce concerns that extending consent durations will mean the outcomes of local planning processes are delayed or cannot be achieved.
- improves the consistency of all options, other than the status quo with Te Tiriti, as it would not extend consents that have been identified in inappropriate areas and that may be having a negative impact on the environment.

[3] An inappropriate area is defined in the NES-MA regulation 6 as: an area of the coastal marine area that, after 1 January 2019, has been identified as inappropriate for existing aquaculture activities in a policy statement or plan or proposed policy statement or plan.

[4] Marlborough's planning process is not complete and is under appeal, so farms that are currently identified as in inappropriate areas may no longer be classified as such once the process is complete. This could mean some farms are excluded even though they are decided not to be in inappropriate areas which may impact outcomes. Alternatively, the extension would need to need to apply to farms whose status changes in the planning process, which would be complex to design and would not be possible in the time available.

The key costs of this approach include:

- does not improve the regulatory burden for the excluded farms, but would still extend the consents, and therefore reduce the regulatory burden for the majority of consent holders, so would still exist.
- does not improve the business environment for the excluded farms, as it does not support business confidence and investment for excluded farms.
- slow regional planning processes has been raised by industry as a cause of uncertainty and low business confidence, especially in Marlborough.

Feedback from stakeholders, Iwi/ Māori and industry on the status quo

69. While officials did not specifically engage on this option, we anticipate that relevant councils (Marlborough and Waikato) would support a more nuanced approach to extending consents, including the exclusion of farms identified as being in inappropriate locations for reasons associated with environmental, cultural, or public interests.

70. Feedback from industry considered that many farms identified as inappropriate are vital for spat nursery sites. There are appeals currently underway in Marlborough contesting the classification of certain farms as inappropriate for effects on landscape and/or natural character. Similarly, in Waikato, the identification of particular farms as inappropriate is contested.

Option B – Exclude consents from extension where they have durations under 20 years

71. Under this option most consents would be extended (either options two, three, four or five), but excluding consents with a duration of less than 20 years. Officials initial estimate is that there are fewer than 10 consents that would under this option.

72. Section 123A of the RMA sets out that the minimum application term for a consent is 20 years, except in certain circumstances. Officials have considered this option when:

- the applicant has requested a shorter period
- shorter period is required to ensure that adverse effects on the environment are adequately managed, or
- NES expressly allows for a shorter period.

The key benefits of this approach include:

- enables the effectiveness of other options in meeting the criteria of reducing regulatory burden or improving the business environment as only a small number of farms would be excluded.
- the consent terms and conditions were set on the basis that they would have shorter durations and may not be fit-for-purpose to manage effects for longer periods.
- ensures the outcomes/rationale for shorter consent terms are not impacted and maintain certainty.
- safeguards natural resources, particularly as it would ensure consents given short durations to manage adverse environmental effects are not extended.
- Likely improve the consistency of all options other than the status quo with te Tiriti.

Key costs of this approach

- may be less efficient to implement as these farms will need to be identified to implement the policy, which we may not be able to do in the time available.

- only a small number of farms understood to be in this category means any reduction in risks is expected to be small.

Feedback from stakeholders, iwi/ Māori and industry on the status quo.

73. While officials did not specifically engage on this option, we anticipate that councils would support a more nuanced approach to extending consents.

74. Industry considered that there is a case for increasing the term of short-term research consents.

How do the options compare to the status quo/status quo?

	Option One –*Status quo*	Option Two – extend all consents by five years	Option Three – extend all consents by 15 years	Option Four – extend all consents by 25 years	Option Five - extend all consents to 2050
Reduce the regulatory burden on applicants and consenting authorities	0	+	0	0	
Promote the sustainable management of natural and physical resources	0	--	--	--	--
Provides certainty for industry and consent authorities	0	+	++	++	++
Upholds the Crowns Treaty of Waitangi obligations.	0	--	--	--	--
Effectiveness	0	0	0	0	0
Efficient	0	+	+	+	+
Overall assessment	0	0	0	-	-

Key for qualitative judgements:

++	much better than doing nothing/the status quo/status quo
+	better than doing nothing/the status quo/status quo
0	about the same as doing nothing/the status quo/status quo
-	worse than doing nothing/the status quo/status quo
- -	much worse than doing nothing/the status quo/status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

75. The current evidence in relation to the options is uncertain. This, along with compressed timeframes means officials have not recommended an option.

76. However, officials consider that options three and four are likely to best deliver on the government's goals and are relatively similar in terms of net benefits and delivery of the policy objectives. Including exclusion option B into options three and four would improve the outcomes of these options. This would provide significant certainty to industry through the extension, while addressing some risks that options three and four on their own may have.

77. Officials consider that the status quo is working efficiently and effectively and provides for better environmental and Treaty outcomes than the other options.

78. The Minister for Oceans and Fisheries has indicated a preference for option four only.

Extension timeframe options

79. Options two to five would improve the business environment for aquaculture, through reducing costs and increasing certainty. This would promote business confidence.

80. There are trade-offs with these options, particularly in relation to safeguarding natural resources, including significantly delaying reconsenting processes that are important for aligning consent conditions to be practice. It is difficult to assess the level of impact of the risks of these options, and unintended consequences cannot be ruled out.

81. Treaty impact analysis has also raised that these options may undermine Crown settlements that have statutory areas overlapping with marine farms or provisions relevant to the proposal.

82. More broadly, the options may not reflect broader Treaty responsibilities, including through bypassing mechanisms for Māori to act as kaitiaki in the resource management system and influence what activities occur in their rohe.

83. , Treaty partners have raised that the process for making these changes, including the engagement process and short timeframes, do not uphold the Crown's responsibilities as a Treaty partner.

84. Option two (an extension of five years) would likely meet non-industry stakeholder satisfaction as it enables involvement in the consenting process earlier. It would have a less positive impact on business confidence and would not reduce the uncertainty described by industry.

85. Option four (an extension of 25 years) would provide the most certainty for industry and have the greatest reduction in costs, however, also carries the most significant risks and potential for unintended consequences, as it would considerably prolong any impacts.

86. Option three (an extension of 15 years) would have a smaller positive impact than option four on business confidence and costs as it would provide a shorter extension and therefore less certainty. However, it would still provide an improvement on the status quo by reducing costs and improving the business environment. Option two would also have less risk that option three in terms of Treaty impacts and sustainable management and protection of resources, as the extension would be shorter. Therefore, the net benefits and costs of options two and three are similar.

87. Option one (the status quo) would avoid negative impacts on resource protection and management, as well as unintended consequences, and would not have risks in relation to meeting Treaty principles or Treaty settlement obligations. However, it would not improve business certainty or lower regulatory costs and would not achieve the policy objectives.

88. Option five (an extension to 2050) would provide a long extension to some consent holders, but a shorter extension to others, which means that the benefits in terms of reduced costs and business confidence are variable. Additionally, in the longer-term option five would create a significant bottleneck for reconsenting in 2050, as all consents would expire at the same time. Additionally, the same risks identified with option two, three and four would apply to this option, so impacts would not be a net positive.

Exclusion options

89. Any option would be strengthened by adding Option B, excluding consents with shorter-terms (less than 20 years). This option has strong net benefits, as it would better enable management of the risks associated with options to extend consents. In particular, it would mean consents that were intentionally given shorter durations to manage adverse environmental effects would not be extended.

90. This option would not reduce the effectiveness of the extension in improving the business environment or reducing costs for industry, as we estimate less than 10 consents would be excluded.

91. Option A would be challenging to implement and it is not clear that it can be delivered in the time available due to its complexity. Additionally, the benefits and risks of this option are uncertain. While this option may mitigate some risks of an extension on safeguarding natural resources, this hinges on whether there would remain sufficient incentives for farms in inappropriate areas to relocate, which is unclear. This option would not significantly reduce the benefits of an extension under Options two or three in terms of cost savings, but may impact the business environment for wider industry.

What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional <u>costs</u> of the preferred option compared to taking no action			
Regulated groups	Not applicable		Not applicable
Regulators	Initial administrative costs for councils associated with implementing the policy change.	Low	High
Wider government	Initial policy development costs and costs for producing guidance to support implementation.	Low	High
Iwi//Māori	To the extent that iwi, hapū and Māori consider that this option negatively affects their rights and interests they may consider legal avenues, with associated costs. Māori in whose rohe aquaculture is located and who do not have aquaculture assets in particular may consider that	Medium	Low It is difficult to determine the extent to which these costs may materialise

	there are costs in terms of delayed opportunities to participate in decision making and sustainable management.		
Total monetised costs	Not available - difficult to quantify	Not available	Not available
Non-monetised costs	May reduce/slow innovation and best-practice changes on marine farms. Social: may create discontent as reduces community participation in consenting processes, and may be perceived as overriding local planning processes.	Low Low	Low certainty as difficult to determine what impact will be, likely low as there are other avenues to change consent conditions and innovate. Medium – officials are aware of key areas where there is high community interest in aquaculture consenting.
Additional benefits of the preferred option compared to taking no action			
Regulated groups	Reduced costs as most consents will not need to reconsent for an additional 15-25 years.	Medium	High
Regulators	Reduced administrative burden associated with processing reconsenting applications.	Low	High
Wider government	N/A		
Iwi/Māori	Māori aquaculture sector participants will benefit from extended consent terms.	High	High
Total monetised benefits	Difficult to quantify.		
Non-monetised benefits	Increased certainty in tenure of consent may raise confidence in investment and improvement. Potential redirection of funds into improvement rather than compliance, as will not have to undertake reconsenting process for an additional 15-25 years.		

Section 3: Delivering an option

How will the new arrangements be implemented?

92. It is anticipated that the amendments to the RMA will receive Royal Assent in 2024 and come into force shortly afterwards.

93. Councils, resource consent applicants and consent authorities more broadly will be required to implement the changes.

94. The Ministry for the Environment and Ministry for Primary Industries will produce guidance documents to assist resource consent applicants and consent authorities implement the proposals.

How will the new arrangements be monitored, evaluated, and reviewed?

95. The Ministry for Primary Industries will monitor the effect of the extension of marine consent durations through liaising with regional councils and industry stakeholders.

Appendix One: Targeted engagement list of stakeholders, Treaty partners, and iwi/Māori

Table 2: Provides an overview of the different stakeholder, interest groups and iwi/Māori that were invited to submit on the proposals and participate in online hui during late February 2024. These groups include aquaculture groups, ENGOs, councils, Treaty partners and iwi/Māori. All groups were invited to provide written feedback after the online hui.

Note: there are additional groups that provided written feedback on the proposals including scientists, individual experts, environmental groups (e.g., Forest & Bird) and members of the public. These individuals and/or groups have not been captured in the table below.

Other stakeholders were invited to engage but did not participate.

Table 2: Overview of stakeholders, interest groups and Iwi/Māori invited to submit on proposals and participate in online hui

Group	Organisation
Aquaculture Groups	King Salmon
	Aquaculture New Zealand (AQNZ)
	Apex Marine Farm Limited
	Marine Farming Association Inc (MFA)
	Coromandel Marine Farming Association
	Seafood Innovations Limited (SIL)
	Sanford New Zealand
	Aquaculture Direct Limited (ADL)
	Gascoigne Wicks (GW) Lawyers
	Moana New Zealand
	OP Columbia (OPC)
	Whakatōhea Mussels (Opotiki) Limited
	New Zealand Coastal Society
	Clearwater Mussel Ltd
	Talley's Limited
Councils	Environment Canterbury
	Northland Regional Council
	Tasman District Council
	Marlborough District Council
	Bay of Plenty Regional Council
	Waikato Regional Council
	Hawkes Bay Regional Council
	Environment Southland
	Otago Regional Council
	Te Ohu Kaimoana
	Whakatōhea Māori Trust Board

Group	Organisation
Treaty partners and iwi/Māori groups	Ngāti Awa
	Rangitāne
	Ngati Porou
	Tuwharetoa
	Te Aupōuri
	Kopinga
	Ngāti Kuri
	Ngā Taonga o Ngaitakoto Trust
	Ngāti Kahu
	Te Rarawa
	Whaingaroa
	Ngāti Wai
	Ngāpuhi
	Ngati Whatua
	Hauraki
	Tainui
	Te Nehenehenui
	Te Arawa Fisheries
	Ngāi Te Rangi
	Ngāti Ranginui
	Ngāti Pūkenga
	Te Whānau-ā-Apanui
	Ngāti Whare
	Ngai Tuhoe
	Mahaki Trust
	Rongowhakaata Iwi Trust
	Ngāti Kahungunu
	Ngāti Raukawa ki te Tonga
	Te Ati Awa ki Kapiti
	Muaūpoko
	Ngāti Toa
	Te Ātiawa
	Ngā Tāngata Tiaki
	Ngati Ruanui
	Ngāruahine
	Ngāti Apa
	Ngā Wairiki
	Ngāti Mutunga
	Ngāti Kuia
	Ngāti Koata

Group	Organisation
	Ngāti Rarua
	Ngāti Tama
	Ngāi Tahu
	Hokotehi Moriori Trust
	Ngāti Mutunga o Wharekauri
	Kahukuraariki
	Ngāti Apa ki te Rā Tō
	Ngāti Tūrangitukua
	Port Nicholson Block Settlement Trust
	Raukawa
	Te Arawa River Iwi Trust
	Rauru
	Te Kotahitanga o Ngati Tuwharetoa
	Ngāti Hinerangi
	Ngāi Takoto
	Te Rūnanga o Ngāti Manawa
	Ngati Tama o Taranaki
	Mana Ahuriri
	Tamatea Pōkai Whenua
	Ngāti Hineuru
	Te Rohe o Te Wairoa
	Ātihau
	Kaipara Moana
	Ngāi Tai ki Tāmaki
	Ngāti Manuhiri
	Ngāti Tamaoho
	Ngāti Whātua Ōrākei
	Te Tumu Paeroa
	Te Kawerau
	Te Roroa
	Te Uri o Hau
	Ngāti Makino
	Tapuika
	Waitaha
	Te Pūmautanga o Te Arawa Trust
	Ngāti Pukenga
	Kahukuraariki
	Ngāti Apa ki te Rā Tō
	Ngāti Tūrangitukua
	Pouakani

Group	Organisation
	Ngāti Maru
	Taranaki
	Te Kotahitanga o Ngāti Tūwharetoa
	Te Atiawa
	Te Aupouri
	Tangoio
	Ngāti Pāhauwera
	Ngāi Tāmanuhiri
	Tātau Tātau o Te Wairoa
	Ngāti Rangi
	Ngā Tāngata Tiaki o Whanganui
	Ngāi Tai ki Tāmaki
	Ngāti Whātua Ōrākei
	Tū Mai Rā
	Ngāti Rangitihi
	Tupono
	Ngāti Haua
	Ngāti Tūrangitukua
	He Kāinga
	Ngāti Hinerangi
	Ngati Toa
	Ngāi Tai ki Tāmaki
	Ngāti Tūrangitukua
	Tū Mai Rā Investments
	Te Nehenehenui
	Ngāti Korokī Kahukura
	Hineuru
ENGOs & community advocacy groups	Environmental Defence Society (EDS)
	World Wildlife Fund (WWF)
	McGuiness Institute
	Friends of Nelson Haven & Tasman Bay Inc
	Kenepuru & Central Sounds Residents Association
	Guardians of the Sounds
	Environmental Law Initiative (ELI)

Appendix Two: Treaty Impact Analysis for the proposal to extend marine consents

Scope of the Treaty impact analysis

This treaty impact analysis has focused on Minister Jones' proposed option, an extension to all marine consents of 25 years. Treaty impact analysis of other options is presented in the regulatory impact statement in the relevant sections. This analysis covers:

- the Crown's settlement obligations affected by this proposal; and
- wider Treaty impacts of the proposal and process for development.

We note short timeframes have limited the depth of this Treaty impact analysis. Consequently, this analysis may not summarise all the relevant provisions and requirements under each Treaty settlement or other arrangements. The short timeframe has also limited our understanding of Māori rights and interests in this proposal.

Treaty partners have said that the proposal and the consultation that occurred do not uphold the Crown's responsibilities as a Treaty partner

Treaty partners raised that in delaying reconsenting by 25 years, the proposal bypasses reconsenting processes, which include specific Crown settlement obligations and mechanisms for Māori to act as kaitiaki in the resource management system.

Treaty partners also raised that the Crown has not upheld its responsibilities as a Treaty partner in its consultation on the proposal.

The below analysis summarises the key considerations. Further detail regarding specific legislation and settlements that may be impacted is set out in Appendices 2A and 2B.

Extending marine consents may not provide for settlements and limit exercise of kaitiakitanga in the resource management system

Delaying reconsenting processes for 25 years could be interpreted as the Crown excluding Māori and avoiding the responsibility to ensure Māori participation in the resource management system. The delay removes key mechanisms for Māori make decisions for their community, to protect taonga, and realise their environmental aspirations. More broadly, it could be interpreted as undermining Māori expressions of rangatiratanga and kaitiakitanga in the resource management system.

The proposal to extend consents prevents Māori participation in multiple ways. Treaty partners may consider that some mechanisms have been bypassed and do not reflect Crown settlement commitments. Others relate more broadly to the Crown's responsibilities to act as a good Treaty partner.

The proposal may not provide for Treaty settlements

The proposal could be interpreted as not providing for Treaty settlements that either:

- have statutory areas overlapping with marine farms, or
- contain provisions that are relevant to the proposal.

These include statutory acknowledgements and deeds of recognition that require the relevant consent authority to notify relevant PSGEs of resource consents within their statutory area and have regard to the statutory acknowledgements when making decisions to notify resource consents. Some Treaty settlements include requirements for local authorities to have regard to specific management plans for resource consents in a specific area.

By delaying opportunities for those with relevant statutory acknowledgements to input into consenting processes and plans, the proposal may risk not providing for the settlements that hold these statutory acknowledgements and may have unintended consequences on Māori rights and interests.

Treaty partners are likely to consider that the proposal bypasses mechanisms for Māori participation that reflect broader Treaty responsibilities

The Crown has broad responsibilities to act consistently with the Treaty and be a good treaty partner. The Crown has a duty to ensure Māori can participate in the resource management system and to work in partnership with Māori when making decisions about resource management. In addition, as per Article 2 of Te Tiriti, the Crown must be mindful that kaimoana is a taonga.

Involvement and input into regional plans and consenting decisions are key mechanisms for Iwi to influence what activities occur in their rohe and exercise kaitiakitanga within the resource management system. Māori are likely to consider that the proposal reduces the ability of these mechanisms to achieve their intent, for example, because the extension of consents may delay or frustrate the achievement of regional plan outcomes.

Legislation that provides for Māori participation includes:

- provisions in the RMA related to consenting and regional planning processes; and
- customary rights provided for under the Marine and Coastal Area (Takutai Moana) Act 2011.

There are also mechanisms at local government level, including:

- several Mana Whakahono-ā-rohe between local government and Iwi/hapū that include mechanisms for Māori involvement in consenting processes and regional planning processes; and
- a range of relationship agreements between Councils and mana whenua that could also be seen to have been bypassed by the proposal.

The above legislation and regional agreements that may be impacted reflects commitments the Crown has made in settlements and as a Treaty partner.

Treaty partners have said that the Crown has not acted in accordance with its settlement obligations or the Treaty when engaging on the proposal to extend marine consents

The Ministry for Primary Industries engaged with Iwi aquaculture organisations and post-settlement governance entities to better understand Māori views and interests in relation to

the proposal. However, the timeframes available for engagement meant that Treaty partners were not able to fully consider the potential impacts of the proposal. Treaty partners consider that the engagement did not align with Treaty principles such as partnership, participation, informed decision marking, active protection, redress, or reconciliation.

While feedback from engagement was provided to the Minister, the timeframe available for engagement meant that Treaty partners could not meaningfully influence the proposal.

Through the engagement, Iwi said that:

- The timeframe for engagement was inadequate and did not enable sufficient consideration and informed responses. This meant that Iwi did not have enough time to bring forward individual Marae and hapū views on the proposal. Consequently, this was not considered to constitute meaningful engagement or provide sufficient opportunity to influence outcomes and actions.
- There was a lack of information provided. For example, some Iwi wanted more clarity on how many farms are related to Iwi or Māori organisations[5] or where marine farms in their rohe are located. Iwi also raised that there was not enough evidence and information provided on the need for the extension, evaluation of alternatives or environmental effects, or impacts on tangata whenua interests, rights and responsibilities.
- The proposal did not provide a reasonable opportunity for affected parties to be heard which constituted a breach of the principles of natural justice and fairness, and right to justice under the Bill of Rights Act 1990.

Progressing this proposal without further analysis and engagement may undermine goodwill and impact relationships between the Crown, Treaty partners and stakeholders. This may have implications for the Government's ability to secure good engagement from Treaty partners and stakeholders in the future to support future work of interest to them.

The proposal may have positive and negative impacts on Māori aquaculture business interests

Some Iwi also have business interests in an expanding aquaculture sector. For groups who are already involved in aquaculture, the consent extension will deliver benefits including certainty of business continuity, reduced costs and resources, which could be reallocated to business growth. However, Māori that may be looking to enter aquaculture have raised concerns that the proposal may limit their economic aspirations. This view may have arisen because it means that existing aquaculture will be extended and therefore not make way for new opportunities. There may also be concerns that the proposal will erode social licence for aquaculture and make it more difficult for new entrants to get consents in the future.

[5] This information is not held by MPI so could not be provided

Appendix 2A. Relevant legislation and impacts

Legislation	Impact
Resource Management Act 1991 Reconsenting processes are set out in the RMA. This sets out requirements for consents and for consent applications. This includes the notification of consents (set out in section 95A and 95B). Notification can be either public or limited, depending on factors such as the likelihood of adverse environmental effects of the consent (criteria set out in s95A). Most consents for aquaculture require limited notification, which means that consenting authorities need to notify the following groups of the application: - affected protected customary rights groups; - affected customary marine title groups; - affected holders of statutory acknowledgements. Affected protected customary rights groups and affected customary marine title groups relate to the Takutai Moana Act (see below).	Notification provides an opportunity for affected groups to input to the consent process. The proposal to extend consents will delay reconsenting processes (including notification) by 25 years. This proposal will consequently delay input from holders of statutory acknowledgements into reconsenting processes. This would mean the ability of Māori to influence the sustainable management of resources in their region and carry out their role as kaitiaki, and realisation of any environmental aspirations may be reduced. Delaying consenting processes may also delay the ability to consider any appropriate conditions, where the context of decision making may have changed. For example, there may be a need to respond to environmental issues that have developed since the last consent was granted.
Marine and Coastal Area (Takutai Moana Act) 2011 Central rights provided under Takutai Moana include: • **Customary marine title (CMT) holders**: Section 68, provides that customary marine title holders can veto resource consents within their customary marine title area.	Māori may consider that the bypasses the central rights under Takutai Moana. However, under section 64(e) of the Takutai Moana Act, coastal permits that are to continue an aquaculture activity that is already consented under the RMA is listed as an accommodated activity and therefore, the permission rights would not be triggered under a regular RMA consenting process. Given that the consent conditions and locations will not change, CMT groups do not need to be notified of the specified consents.

• **Protected customary rights (PCRs) holders:** Under section 55, a consent authority must not grant a consent for an activity to be carried out in a protected customary rights area if the activity will, or is likely to, have a more than minor adverse effect on the exercise of the protected customary right. • **Takutai moana CMT applicant groups:** Section 62A, requires resource management applicants to notify and seek the views of relevant customary marine title applicants under the Takutai Moana Act.	While only limited CMT has been recognised to date, applications for CMT cover the whole coast of New Zealand, including offshore islands and are under consideration by the High Court and/or the Crown. Section 62(3) and 62A of the Takutai Moana Act applies to all applications for resource consent in areas where applicant groups seek CMT, it does not differentiate in the consent definition and therefore, applications for resource consent for an accommodated activity is included. The proposals would mean the requirement to seek the views of CMT applicant groups under the Takutai Moana Act does not apply, because marine farms would no longer be required to apply for a resource consent. A process to engage with all relevant CMT applicant groups under the Takutai Moana Act in-line with the processes outlined in section 62A, could mitigate some risks.
Māori Commercial Aquaculture Claims Settlement Act 2004 The Māori Commercial Aquaculture Claims Settlement Act 2004 provides for a full and final settlement of Māori commercial aquaculture claims since 21 September 1992. The Act delivers this settlement through providing settlement assets to Te Ohu Kaimoana Trustee Limited (the Trustee) for distribution to Iwi Aquaculture Organisations. MCACSA requires that the Crown provide Iwi with settlement assets representative of 20% of all new	As the proposal will extend existing consents and will not create new space that would trigger Crown settlement obligations, the proposal does not directly undermine the settlement in respect of new space. The MCACSA provides for prospective settlement forecasts of anticipated growth of new space. The value of these settlements is estimated based on a suite of factors, one of which is the cost of obtaining a resource consent over the forecasted period. The policy to extend marine consent durations will mean that in the next forecasted period, there may be less data to draw upon for those models. This is not a significant impact on the settlement processes. Many of the marine farms that are due for reconsenting in the next 12 months are based in Marlborough. Marlborough District Council is undertaking a process that may involve

aquaculture space created or anticipated from 1 October 2011 onwards.	the re-consenting and relocation of several farms in the Marlborough region. The relocation of farms would trigger new space obligations for the section of the newly located farms that fall outside of their prior footprint. The policy to extend marine consent durations will mean that the farms which are not yet reconsented will not be required to move and therefore an obligation would not be generated for these farms. This would be contrary to the expectations of Iwi in the region who have been anticipating an obligation to arise. We note that the farms may be incentivised to move anyway to take advantage of the new space made available to move into by the regional council. This presents a perception risk in relation to the settlement in Marlborough where Iwi may have had an expectation that will be overridden by the proposed policy and could be seen as the Crown not acting in good faith. However, we consider this does not undermine the settlement. Given the limited impact the proposal has on MCACSA, we consider MPI and the Crown has and continues to meet its settlement obligations regarding this piece of legislation.
Fisheries Act 1996 The Ministry for Primary Industries is the agency responsible for administering the Fisheries Act 1996. The settlement commitments in the Fisheries Act are captured in Protocols held by the Ministry for Primary Industries. These Protocols include specific requirements for the Crown, including how the Crown engages with post-settlement governance entities in relation to proposals affecting the Fisheries Act.	The primary link between aquaculture and the Fisheries Act is through the Undue Adverse Effects test. The test is the key mechanism through which consenting authorities ensure that aquaculture consents do not adversely affect settlements and customary, commercial, or recreational fishing through the Fisheries Act. However, as the test is not applied in reconsenting processes, the proposal does not impact the connections between aquaculture activities and the Crown's settlement obligations through the Fisheries Act. One consideration is that the proposal to extend marine consents delays processes that might update consent conditions (e.g. to better manage adverse effects). This delay in updating conditions may negatively affect the environment, which may have effects on

	Fisheries. However, no new consents are being created so we do not anticipate a significant change in any adverse effects on fisheries, and the proposal will not prevent other mechanisms to review or change consents from being used. We consider MPI and the Crown has acted in accordance with its Protocols, and thus with its settlement obligations relating to the Fisheries Act.
Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 (NHNP Act)	There are no marine farms listed on NABIS MPI database in ngā rohe moana o Ngā hapū o Nqati Porou, therefore we do not consider there are implications for the NHNP Act resulting from this proposal. If, however, there are marine farms located within ngā rohe moana o ngā hapū o Ngāti Porou that are not listed on the NABIS database, arrangements under the NHNP Act will need to be considered within this proposal. The rights under the NHNP Act are similar to the Takutai Moana Act, with additional rights such as a notification right under the statutory overlay that requires ngā hapū o Ngāti Porou to be notified of all consent applications within ngā rohe moana o ngā hapū o Ngāti Porou.
Mana Whakahono ā Rohe	There are several Mana Whakahono ā Rohe statutory agreements between Iwi/ hapū and the relevant regional council. These statutory agreements outline how the council will engage with Iwi or hapū through decision-making processes, including providing for an ongoing role in resource consenting. The purpose of these is to provide tangata whenua with more opportunity for meaningful participation in RMA processes and decisions, including to better enable their ability to act as kaitiaki within the resource management system. The proposal may impact these opportunities, given it is bypassing the usual consenting process that sits at the regional or local authority level.

	In the time available we have been unable to locate and consider the impact of the proposals on the individual Mana Whakahono ā Rohe, including because we understand some are under negotiation.

Appendix 2B. List of Treaty settlements or other arrangements with interests in areas with proposed marine farm consent extensions

NgāiTakoto *NgāiTakoto Claims Settlement Act 2015*	Section 5.9-5.11: specifies that the far north district council and the northland regional council will engage early on matters of interest and act in good faith. Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri and the Crown have negotiated the framework for Te Oneroa-a-Tōhē in good faith based on their respective commitments to each other. Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri, the Northland Regional Council and the Far North District Council are committed to establishing and maintaining a positive, co-operative and enduring relationship, as envisaged by Te Tiriti o Waitangi. Section 68: Each Council must provide to the Board copies or summaries of resource consent applications that each receives and that relate—(a) wholly or in part to the Te Oneroa-a-Tohe management area; or (b) to an area that is adjacent to or directly affects the Te Oneroa-a-Tohe management area. Section 72: When a Council is determining an application for a resource consent that relates to the Te Oneroa-a-Tohe management area, the Council must have regard to the beach management plan until the obligation under subsection (1) is complied with. (3) The obligations under this section apply only to the extent that— (a) the contents of the beach management plan relate to the resource management issues of the district or region; and (b) those obligations are able to be carried out consistently with the purpose of the Resource Management Act 1991.
Ngāti Kurī *Ngāti Kuri Claims Settlement Act 2015*	Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri and the Crown have negotiated the framework for Te Oneroa-a-Tōhē in good faith based on their respective commitments to each other. Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri, the Northland Regional Council and the Far North District Council are committed to establishing and maintaining a positive, co-operative and enduring relationship, as envisaged by Te Tiriti o Waitangi.

	Section 8.15: The Minister for Primary Industries must: 8.15.1 on the settlement date, appoint the governance entity as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries Restructuring Act 1995 ("fisheries advisory committee"); 8.15.2 consider any advice of the fisheries advisory committee that relates to: (a) all matters concerning the utilisation, while ensuring the sustainability, of fish, aquatic life and seaweed administered by the Ministry for Primary Industries under the Fisheries Act 1996; and (b) the fisheries protocol area; ("advice on the relevant matters"); and 8.15.3 in considering any advice on the relevant matters, recognise and provide for the customary non-commercial interest of Ngāti Kuri. Section 8.16 The Minister for Primary Industries must: 8.16.1 on settlement date appoint a joint advisory committee under section 21 of the Ministry of Agriculture and Fisheries Restructuring Act 1995 ("joint fisheries advisory committee"); 8.16.2 consider any advice of the joint fisheries advisory committee that relates to: (a) all matters concerning the utilisation, while ensuring the sustainability, of fish, aquatic life and seaweed administered by the Ministry for Primary Industries under the Fisheries Act 1996; and (b) the fisheries protocol areas; and ("advice on the relevant matters"); 8.16.3 in considering any advice on the relevant matters, recognise and provide for the customary non-commercial interests of Te Rarawa, Ngāti Kuri, Te Aupouri and NgaiTakoto. Section 71: Each Council must provide to the Board copies or summaries of resource consent applications that each receives and that relate— (a) wholly or in part to the Te Oneroa-a-Tōhē management area; or (b) to an area that is adjacent to or directly affects the Te Oneroa-a-Tōhē management area.

	Section 131: The Minister must, on the settlement date, appoint a joint fisheries advisory committee to be an advisory committee under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995. (2) Each Te Hiku o Te Ika Iwi governance entity must appoint 1 person to be a member of the committee. (3) The purpose of the joint fisheries advisory committee is to advise the Minister on the utilisation of fish, aquatic life, and seaweed managed under the Fisheries Act 1996, while also ensuring the sustainability of those resources in— (a) the fisheries protocol area; and (b) the fisheries protocol areas provided for by— (i) section 130 of the Te Aupouri Claims Settlement Act 2015; and (ii) section 125 of the NgāiTakoto Claims Settlement Act 2015; and (iii) section 141 of the Te Rarawa Claims Settlement Act 2015. (4) The Minister must consider any advice given by the joint fisheries advisory committee. (5) In considering the advice from the joint fisheries advisory committee, the Minister must recognise and provide for the customary, non-commercial interests of Te Hiku o Te Ika Iwi. (6) If a Te Hiku o Te Ika Iwi does not enter into a fisheries protocol with the Minister, the relevant area for the purpose of advising the Minister under subsection (3) is deemed to be the waters adjacent, or otherwise relevant, to the area of interest of that Iwi (including any relevant quota management area or fishery management area within the exclusive economic zone).
Te Aupōuri *Te Aupouri Claims Settlement Act 2015*	6.9 Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri and the Crown have negotiated the framework for Te Oneroa-a-Tōhē in good faith based on their respective commitments to each other. Te Aupouri, NgāiTakoto, Te Rarawa, Ngāti Kuri, the Northland Regional Council and the Far North District Council are committed to establishing and maintaining a positive, co-operative and enduring relationship, as envisaged by Te Tiriti o Waitangi. Clause 72: Each Council must provide to the Board copies or summaries of resource consent applications that each receives and

	that relate— (a) wholly or in part to the Te Oneroa-a-Tohe management area; or (b) to an area that is adjacent to or directly affects the Te Oneroa-a-Tohe management area.
Te Rarawa *Te Rarawa Claims Settlement Act 2015*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent. Section 85: (in regard to management areas of beach management board)- Each Council must provide to the Board copies or summaries of resource consent applications that each receives and that relate— (a) wholly or in part to the Te Oneroa-a-Tohe management area; or (b) to an area that is adjacent to or directly affects the Te Oneroa-a-Tohe management area. Section 91:Councils must take the beach management plan into account when making decisions under the Local Government Act 2002, to the extent that the beach management plan is relevant to the local government issues in the Te Oneroa-a-Tohe management area. Section 143: The Minister must, not later than the settlement date, appoint the trustees to be an advisory committee under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995.(2) The purpose of the Te Rarawa fisheries advisory committee is to advise the Minister on the utilisation of fish, aquatic life, and seaweed managed under the Fisheries Act 1996, while also ensuring the sustainability of those resources in— (a) the fisheries protocol area; and (b) the fisheries protocol areas provided for by— (i) section 128 of the Ngāti Kuri Claims Settlement Act 2015; and (ii) section 130 of the Te Aupouri Claims Settlement Act 2015; and (iii) section 125 of the NgāiTakoto Claims Settlement Act 2015. (3) The Minister must consider any advice given by the Te Rarawa fisheries advisory committee. (4) In considering any advice, the Minister must recognise and provide for the customary, non-commercial interests of Te Rarawa.
Te Uri o Hau	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.

Te Uri o Hau Claims Settlement Act 2002	Clause 5.6.2 (DOS): The Crown agrees that the Minister of Fisheries will: (a) Appoint Te Uri o Hau Governance Entity, as from the Settlement Date, as an advisory committee under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995, to provide advice to the Minister of Fisheries on all matters concerning the utilisation, while ensuring sustainability, of fish, aquatic life and seaweed administered by the Minister of Fisheries within Te Uri o Hau Fisheries Advisory Area under the Fisheries Legislation; (b) Consider the advice of the advisory committee; and (c) Recognise and provide for the customary non-commercial interests of Te Uri o Hau in respect of all matters concerning the utilisation, while ensuring sustainability, of fish, aquatic life and seaweed within Te Uri o Hau Fisheries Advisory Area. Clause 5.7.4 (DOS) The Crown agrees that the Minister of Fisheries will, in considering any proposal affecting the Toheroa fishery in Te Uri o Hau Fisheries Protocol Area, ensure that the customary non-commercial fishing interests of Te Uri o Hau in Toheroa in Te Uri o Hau Fisheries Protocol Area are recognised and provided for in accordance with the provisions of: (a) Section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992; and (b) Where the proposal relates to setting or varying the Total Allowable Commercial Catch, section 21 of the Fisheries Act 1996 (or specified for a fishery under sections 28C(1), 28CA, 28OB, 28OC of the Fisheries Act 1983, as the case may be). Clause 5.7.6 (DOS): The Crown agrees that the Minister of Fisheries will, when making decisions concerning the utilisation, while ensuring sustainability, of Shark, Ray, Flounder, Snapper, Kahawai or Mullet within Te Uri o Hau Fisheries Advisory Area, to the extent that the Minister is responsible for those species, consult with the Advisory Committee referred to in clause 5.6.2 and recognise and provide for the customary non-commercial interest of Te Uri o Hau in Shark, Ray, Flounder, Snapper, Kahawai and Mullet in Te Uri o Hau Fisheries Advisory Area, consistent with the overall objectives of the Fisheries Legislation.
Ngāti Whātua o Kaipara *Ngāti Whātua o Kaipara Claims*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.

Settlement Act 2013	
Ngāti Whātua o Ōrākei *Ngāti Whātua Ōrākei Claims Settlement Act 2012*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Manuhiri *Ngāti Manuhiri Claims Settlement Act 2012*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Te Kawerau ā Maki *Te Kawerau ā Maki Claims Settlement Act 2015*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāi Tai ki Tāmaki *Ngāi Tai ki Tāmaki Claims Settlement Act 2018*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Pūkenga ki Waiau *Ngāti Pūkenga Claims Settlement Act 2017*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Waikato-Tainui	

Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010	Section 47: This section applies to— (1)applications to the Council for resource consent to— (xix)use, or do activities on, the surface of the water in the part of the Waikato River within the coastal marine area: (b)applications to a territorial authority for resource consent for the use of or activities on the surface of the water in the Waikato River. (2)The part of the joint management agreement on the resource consent process must provide that— (a)each local authority must provide the Trust with information on the applications for resource consents the local authority receives: (b)the information must be— (i)the same as would be given to affected persons through limited notification under section 95B of the Resource Management Act 1991; or (ii)the information that the local authority and the Trust agree on: (c)the information must be provided as soon as reasonably practicable after the application is received and before a determination is made under sections 95A to 95C of the Resource Management Act 1991: (d)the local authority and the Trust must jointly develop and agree criteria to assist local authority decision-making under the following processes or sections of the Resource Management Act 1991: (i)best practice for pre-application processes: (ii)section 87E (request that an application be determined by the Environment Court rather than the consent authority): (iii)section 88(3) (incomplete application for resource consent): (iv)section 91 (deferral pending additional consents): (v)section 92 (requests for further information): (vi)sections 95 to 95F (notification of applications for resource consent): (vii)sections 127 and 128 (change, cancellation, or review of consent conditions).

	(3)The criteria developed and agreed under subsection (2)(d)— (a)are additional to, and must not derogate from, the criteria that the local authority must apply under the Resource Management Act 1991: (b)do not impose a requirement on a consent authority to change, cancel, or review consent conditions. (4)The local authority and the Trust each bears its own costs of complying with this section. (5)Schedule 7 of the Local Government Act 2002 does not apply to the local authority and the Trust when, under the joint management agreement, they carry out the duties and functions or exercise the powers described in this section.
Maniapoto *Maniapoto Claims Settlement Act 2022*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Kahungunu *Ngāti Kahungunu ki Wairarapa Tāmaki nui-a-Rua Claims Settlement Act 2022*	Clause 5.59 (DOS): The Ministry for Primary Industries will explore with the trustees of the Ngati Kahungunu ki Wairarapa Tamaki nui-a-Rua Settlement Trust and Ngati Kahungunu Iwi Incorporated the development of a fisheries relationship agreement, with the intention that the agreement will - 5.59.1 detail how the Ministry for Primary Industries will exercise its powers and functions under fisheries legislation in relation to Ngati Kahungunu and the mandated representatives of Ngati Kahungunu (including the trustees of the Ngati Kahungunu ki Wairarapa Tamaki nui-a-Rua Settlement Trust); 5.59.2 recognise that the mandated representatives of Ngati Kahungunu (including Ngati Kahungunu ki Wairarapa Tamaki nui-a-Rua) continue to have rights as tangata whenua: (a) to be consulted under the Fisheries Act 1996; (b) to exercise their customary non-commercial fisheries interests under the Fisheries Act 1996 and related regulations; and 5.59.3 for the purposes of this clause, the following entities are the mandated representatives of Ngati Kahungunu (including Ngati Kahungunu ki Wairarapa Tamaki nui-a-Rua): (a) Tatau Tatau o Te Wairoa Trust: (b) Mana Ahuriri Trust: (c) Heretaunga Tamatea Settlement Trust: (d) Ngati Pahauwera Tiaki Trust: (e) Maungaharuru-Tangito Trust: (f) Ngati Kahungunu ki Wairarapa Tamaki nui-a-Rua Settlement Trust.

	Section 100: In recommending the making of any regulations about recreational or commercial fishing to apply to the Wairarapa Moana reserves, the Minister of Conservation must have particular regard to any relevant advice from the Statutory Board.
Maungaharuru-Tangitū Hapū *Maungaharuru-Tangitū Hapū Claims Settlement Act 2014*	Clause 5.4 (DOS): By or on the settlement date, the Minister for Primary Industries must, on the terms provided by section 66 of the draft settlement bill, appoint the governance entity as an advisory committee to the Minister for Primary Industries under section 21(1) of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995 for the purposes of advising the Minister on any proposed changes to - 5.41.1 the prohibition on the commercial taking of finfish from the waters of the area in Hawke's Bay known as the Wairoa Hard; and 5.41.2 the restriction on the use of nets for the taking of finfish in the waters of the area in Hawke's Bay known as the Wairoa Hard.
Ahuriri Hapū *Ahuriri Hapū Claims Settlement Act 2021*	Section 95: (3) When a local authority is considering an application for a resource consent to authorise an activity to be undertaken within Te Muriwai o Te Whanga, the local authority must have regard to the Te Muriwai o Te Whanga Plan if the authority considers— (a) that the Plan is relevant; and (b) that having regard to the Plan is reasonably necessary to determine the application. (4) In this section, — (a) a reference to a policy statement includes a proposed policy statement (as that term is defined in section 43AA of the Resource Management Act 1991); and (b) a reference to a plan includes a proposed plan (as that term is defined in section 43AAC of the Resource Management Act 1991).
Ngāti Toa Rangatira *Ngati Toa Rangatira Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Taranaki Whānui ki Te Upoko o Te Ika	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009	
Te Ātiawa o Te Waka-a-Māui *Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Apa ki te Rā Tō *Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Rangitāne o Wairau *Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Kuia *Ngāti Apa ki te Rā Tō, Ngāti Kuia,*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.

and Rangitāne o Wairau Claims Settlement Act 2014	
Ngāti Rārua *Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāti Kōata *Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent. Clause 5.61 (DOS): TE KUPU WHAKAIRO (MEMORANDUM OF UNDERSTANDING) The memorandum of understanding will require that, if the Department of Conservation is undertaking certain activities within Whangarae Bay, Te Pātaka a Ngāti Kōata trustees (or other persons nominated by the trustees) will be consulted, and regard given to their views, to respect the association of members of Ngāti Kōata with Whangarae Bay.
Ngāti Tama ki Te Tau Ihu *Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014*	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.
Ngāi Tahu	Statutory Acknowledgement in CMA relevant to proposed marine farm consent.

Ngāi Tahu Claims Settlement Act 1998	Section 303: The Crown having acknowledged the special association of Ngāi Tahu to the taonga fish species in section 298, the Minister of Fisheries must, when the Minister makes policy decisions concerning the protection, management, use, or conservation of the taonga fish species within the Ngāi Tahu claim area, including the promulgation of any regulations under any enactment,— (a) consult with Te Rūnanga o Ngāi Tahu in its capacity as an advisory committee appointed pursuant to clause 12.14.7 of the deed of settlement; and (b) recognise and provide for the association of Ngāi Tahu with the taonga fish species, consistent with the overall objectives of the Fisheries Act 1983 and the Fisheries Act 1996. (2) Subsection (1) applies only to the extent that the Minister of Fisheries is responsible for the taonga fish species. Section 304: The Crown having acknowledged the special association of Ngāi Tahu to the taonga fish species in section 298, the Minister of Conservation must, in all matters concerning the management and conservation by the Department of Conservation of taonga fish species within the Ngāi Tahu claim area, consult with, and have particular regard to the advice of, Te Rūnanga o Ngāi Tahu in its capacity as an advisory committee appointed pursuant to clause 12.14.9 of the deed of settlement. (2) Subsection (1) does not derogate from the obligations of the Minister of Conservation under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi. Clause 13.4.5 (DOS): The Crown agrees that Te Rūnanga is to be given fisheries management rights over the Fisheries Area. Upon formal request by Te Rūnanga the Crown will, subject to, and in accordance with, the relevant statutory requirements existing at the time, give effect to such request. The timing of any such request, and the nature and extent of the request, will be at the discretion of Te Rūnanga.