

Aquaculture Amendment Legislation

Aquaculture has had a rocky history in New Zealand. The Moratorium in 2001 to give the overloaded consenting regime some breathing space put a hold on the expected “gold rush”. The 2004 reforms were hoped to speed things along, but the full benefits of those reforms are still to be seen.

The 2004 reforms introduced a single consent process, placed more responsibility in the hands of regional councils and provided for the establishment of aquaculture management areas (AMAs). However, the practical realities of getting an AMA (even deemed AMAs) in place had the industry still waiting, indicating that attempts to improve the process were still wanting.

Aquaculture is significant to the economic growth of New Zealand. The New Zealand Aquaculture Strategy aims to build aquaculture to be a billion dollar industry by 2025. As world-wide fishery resources get scarcer and demand increases, the aquaculture industry’s role in fisheries is increasingly important. There are sustainability issues around aquaculture. Effects on the aquatic environment need to be managed, along with sourcing wild fish stocks as aquaculture feed.

To support the aquaculture industry, the Government passed the Aquaculture Legislation Amendment Bill on 27 September 2008.

The Resource Management Amendment Act 2008 is one of the resulting amendment acts. It clarifies that applications to occupy parts of the coastal marine area for aquaculture activities may only be made in relation to aquaculture management areas in operative regional coastal plans.

The latest amendments are one of the many steps which are part of the aquaculture reforms. The amendments are in response to the problems raised regarding the wording of current aquaculture legislation in a decision of the Environment Court in May 2006 *SMW Consortium Limited v Tasman District Council*. The Government considered that the law created by that case was not consistent with the intention of aquaculture legislation.

Some of the other resulting amendments:

- Cancel any application if it is made after 9 May 2006 (the date of the SMW decision) and does not relate to an AMA in an operative regional coastal plan.
- Put on hold applications made on or after 1 January 2005 to 10 May 2006 that did not relate to an AMA in a regional coastal plan. They

may be processed if the area covered by the application becomes an AMA in an operative regional coastal plan.

- State that AMAs can be established in two ways: 1) by being included in a regional coastal plan or proposed regional coastal plan; 2) by becoming an AMA under section 44 or 45 of the ARA.

A second aquaculture amendment bill, the Aquaculture Legislation Amendment Bill (No 2) has had its first reading and has been referred to the Primary Production Select Committee for consideration. The Bill proposes to:

- Further amend legislation to facilitate the creation of new AMAs.
- Provide for the opportunity to negotiate an aquaculture agreement with relevant commercial fishers, where the permit would previously have been declined due to its undue adverse effect on commercial fishing.
- Clarify that if a council does not use an expression of interest process for private plan changes they can chose between competing interests.
- Enable experimental aquaculture.
- Support environmental monitoring (using marine organisms) and other technical amendments relating to the 2004 aquaculture reforms.

There are interim AMAs in place in Tasman Bay, Golden Bay and Wilson Bay. The Chief Executive of the Ministry of Fisheries made preliminary decisions on the interim AMAs in Golden Bay and Tasman Bay earlier this year. It is hoped that with the new reforms in place he will be able to make final decisions on those AMAs around November. The Chief Executive is currently considering the interim Wilson Bay AMA (Firth of Thames), submissions closed 10 October 2008. The Ministry is also still processing a backlog of applications under the old-pre aquaculture reform legislation.

The latest amendments and those proposed may help to clear the way for the aquaculture industry to realise its potential. However, progressing the proposed amendments may depend on the priorities of the next Government.

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