TE OHU KAIMOANA

Te Ohu Kaimoana's Response to the Proposed Changes to the NES-MA and NZCPS

July 2025

Contents

This is our response to the NES-MA and NZCPS proposals

1. Thank you for providing us with the opportunity to comment on the proposals for new and amended national direction instruments under the Resource Management Act 1991 (RMA).

2. This is our response to the proposed changes to the National Environmental Standards for Marine Aquaculture (NES-MA) and New Zealand Coastal Policy Statement 2010 (NZCPS). These proposals are included in **Package 2: Primary sector**. In this section, we have also included our key concerns regarding all proposed changes to national direction, and resource management reform more broadly.

3. We have structured our response as follows, providing:
    a. who we are and the reasons for our interest in changes to national direction;
    b. a summary of our views on the proposed NES-MA changes;
    c. our analysis of proposed NES-MA regulation changes;
    d. a summary of our views on the proposed NZCPS changes; and
    e. our thoughts on broader NZCPS proposals and aquaculture specific proposals.

4. We do not intend our response to conflict with or override any response provided independently by iwi, through their Mandated Iwi Organisations (MIOs), Iwi Aquaculture Organisations (IAOs) and/or Asset Holding Companies (AHCs).

We are Te Ohu Kaimoana

5. Te Ohu Kaimoana was established to protect and enhance the Māori Fisheries Settlements.[1] The Māori Fisheries Settlement, the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Claims Settlement Act 2004 (MCACSA) are expressions of the Crown's legal obligation to uphold Te Tiriti o Waitangi, particularly the guarantee that Māori would maintain tino rangatiratanga over our fisheries resources.

6. The purpose of Te Ohu Kaimoana, as set out in section 32 of the Māori Fisheries Act 2004, is to advance the interests of iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to:
    a. ultimately benefit the members of iwi and Māori generally;
    b. further the agreements made in the Fisheries Deed of Settlement;
    c. assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
    d. contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Fisheries Deed of Settlement.

7. The purpose of the Māori Aquaculture Settlement Trust, as set out in section 35 of the MCACSA, is to:
    a. receive settlement assets from the Crown or regional councils;
    b. hold and maintain settlement assets on trust until they are transferred to an IAO;
    c. allocate settlement assets to iwi on the basis of a model set out in the MCACSA;
    d. facilitate steps by iwi to meet the requirements for the allocation of settlement assets; and

[1] The full framework of deeds and settlement legislation to give effect to the agreements between the Crown and Māori in the Fisheries Settlement involves: the (now repealed) Māori Fisheries Act 1989, the 1992 Fisheries Deed of Settlement, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (which also includes the customary fisheries management regulations given effect through Part 9 of the Fisheries Act 1996), the Māori Fisheries Act 2004, and the Māori Commercial Aquaculture Claims Settlement Act 2004. At the passage of the aquaculture settlement Act, the Minister at the time stated in Parliament that it was the "unfinished business of the Fisheries Settlement" and it adopts many of the same mechanisms.

e. perform any functions that are necessary or desirable to facilitate consultation between the Crown and IAOs, MIOs, and RIOs for the purposes of the MCACSA.

8. We work on behalf of 58 mandated iwi organisations (MIOs), Recognised Iwi Organisations (RIOs) and Iwi Aquaculture Organisations (IAOs) who represent iwi throughout Aotearoa. Our work on behalf of iwi is not only to protect their rights and interests but to enable them to progress their aspirations within the moana.

Te Ohu Kaimoana's interest in the proposals

9. Our interest in the proposed changes to the NES-MA and NZCPS arises from our responsibility to protect the rights and interests of iwi in fisheries and aquaculture, in a manner that furthers the agreements in the Fisheries Deed of Settlement, the Māori Fisheries settlements and the Aquaculture Settlement, and assists the Crown to discharge its obligations under these, Te Tiriti o Waitangi and the Treaty of Waitangi.

10. Te Tiriti o Waitangi recognised and guaranteed Māori tino rangatiratanga over their taonga, including fisheries. Tino rangatiratanga is Māori acting with authority and independence over their own affairs. It is practiced through living according to tikanga and mātauranga Māori, and striving wherever possible to ensure that the homes, land, and resources (including fisheries) guaranteed to Māori under Te Tiriti o Waitangi are protected for the use and enjoyment of future generations.

11. There is a special relationship that iwi, hapū and whānau have with the moana, including recognising their interdependent relationship with Tangaroa to enjoy the taonga along with a reciprocal responsibility to ensure the health and well-being of Tangaroa. This expression underpins our purpose, policy principles and leads our kōrero to ensure the sustainability of Tangaroa's kete for today and our mokopuna yet to come. It is important that the Government understands the continuing importance of Tangaroa and recognises the tūhonotanga that Māori hold as his uri.

12. Iwi / hapū rights are an extension of their kaitiaki responsibility, a responsibility to use the resources in a way that provides for social, cultural and economic well-being, and in a way that is not to the detriment of Tangaroa or other children of Tangaroa. It speaks to striking an appropriate balance between people and those we share the environment with. Management and protection of the coastal marine area, including fisheries and marine aquaculture resources, are some elements of this reciprocal relationship.

National direction changes and broader resource management reform

13. For Te Ohu Kaimoana, our key concern for the proposed changes to these primary sector regulations, and all proposals for new and amended national direction more broadly, is to ensure that the proposals protect and uphold the commitments made by the Crown to iwi in the fisheries and aquaculture settlements, as well as the over-arching commitments set out in Te Tiriti o Waitangi.

14. Of particular concern to us is the potential for cumulative negative impacts arising from all the proposed changes to national direction. Proposals in the infrastructure and development package seek to enable greater development in the coastal marine area, which could impact on the health of Tangaroa, as well as displace and disrupt fishing. The freshwater package includes proposals that could have negative downstream impacts on the marine environment, posing risks to the health of Tangaroa, including to fish stocks. We support the response from Te Wai Māori on the freshwater package. We urge the Government to carefully consider the full impacts of aggregated changes to national direction in the coastal marine area, and to only progress with proposals that will protect and uphold the commitments made by the Crown to iwi in the fisheries and aquaculture settlements.

15. Our key concern for broader RMA reform is also to ensure that the Crown's commitments to iwi are protected and upheld. We intend to input into proposed new resource management legislation on this same basis. Following any interim changes to the current national direction instruments, we seek clarity on the progress of RMA Phase Three and how RMA Phase One, Phase Two and national direction changes interface with it.

Mauri ora,

Graeme Hastilow

Te Mātārae | Chief Executive
Te Ohu Kaimoana Trustee Limited

Our position on proposed NES-MA changes

16. Te Ohu Kaimoana acknowledges that making adjustments to marine farms or obtaining consents for research and trials can be challenging. We agree that there is scope to improve the NES-MA, including in response to the 2023 Fisheries New Zealand review of NES-MA effectiveness and implementation. However, it is important that any changes to the NES-MA are balanced and provide for adequate engagement with tangata whenua, including MIOs and IAOs. Any changes must also have safeguards in place to prevent activities that could adversely impact on the health of Tangaroa or the rights guaranteed to iwi through the fisheries and aquaculture settlements.

17. Te Ohu Kaimoana supports several of the proposed regulatory changes. We also view some of the proposals as positive steps for marine farming, however we believe they could be strengthened to provide for greater tangata whenua engagement and environmental safeguards.

18. We are concerned that some of the proposed changes may adversely impact on the health of Tangaroa and will not adequately protect Māori rights and interests. We strongly recommend amending these proposals to protect and uphold the environment and the rights and interests of Māori. We have summarised our key thoughts and recommendations below. Following this, we have provided our analysis and response to specific (numbered) proposed regulations.

Summary of our response to the proposed changes

We are supportive of changes that uphold Māori rights and interests

19. We support the application of NES-MA regulations to marine farms established after 2020, and of new regulations to areas in the Tasman district and Waikato region.

20. We support proposals that will make it easier to change existing marine farms where it can be demonstrated that there are no risks to the health of Tangaroa, the protection of taonga species and the rights guaranteed to Māori under the fisheries and aquaculture settlements or Te Tiriti o Waitangi.

21. Following this, we support the introduction of new regulations that will make it easier to adjust marine farm structures, and that will make it possible to add new species similar to consented species already being farmed (e.g. adding other bivalves to a bivalve farm, adding spat to a consented mussel farm).

22. We support proposals that provide for tangata whenua views to be sought on draft applications to make changes to consents or undertake research and trials under the new regulations. However, we believe these provisions could be strengthened.

23. We support proposals that provide for notification of customary rights and marine title groups.

24. We acknowledge the proposals to give authorities discretion to consider the effects of replacement coastal permit applications on Māori access to coastal areas of significance. However, we believe these proposals should be strengthened.

25. In addition to the Government’s proposals, we are supportive of the proposal set out in Te Rūnanga o Ngāi Tahu's response, seeking a new regulation in the NES-MA for a controlled activity pathway within aquaculture settlement areas. The Crown works together with regional councils, IAOs and Te Ohu Kaimoana to identify and gazette appropriate aquaculture settlement areas. Although robust checks and balances are carried out throughout the process, it can still be challenging for IAOs to later undertake any aquaculture activities in settlement space. A new regulation in NES-MA could support the Crown's delivery of the

aquaculture settlement, while maintaining processes to ensure aquaculture settlement areas are only provided in spaces that are appropriate from an environmental perspective, and providing matters of control that enable councils to manage any impacts. If this regulation was introduced, our position is that the Crown must still be required to provide good settlement space for iwi to uphold the intent of the MCACSA. Te Ohu Kaimoana consider that any further work on such a regulation must explore the relationship between this, section 360A in the RMA, the MCACSA, and ensure that there are no unintended consequences for the aquaculture settlement.

Some proposals could have negative impacts

26. We do not support changes that will preclude engagement with tangata whenua on activities that may impact on the health of Tangaroa, the protection of taonga species, or the integrity of the fisheries and aquaculture settlements.

27. We have concerns regarding proposals that would limit tangata whenua engagement and prevent notifications to Customary Marine Title (CMT) groups for research and trial activities in new space. As these areas are not currently occupied by aquaculture activities, these proposals would deny tangata whenua any opportunities to raise concerns about potential impacts on their rights, interests and environment.

28. We do not support proposals that would make aquaculture-related research and trials in new locations permitted activities. This approach would remove any ability for tangata whenua or councils to prevent activities that may adversely impact on the health of Tangaroa, the protection of taonga species, or the Māori fisheries and aquaculture settlements. Because permitted activities are not consented, CMT groups would be denied the opportunity to exercise their rights to grant or withhold permission for research and trial activities in their rohe moana. It would exclude any applicant CMT groups from being notified or given an opportunity to share their views. Our priority is to ensure that no future research and trial activities are established without meaningful engagement and approvals from iwi. When taking up new space, consideration must also be given to aquaculture settlement areas, and any potential settlement space being actively considered by the Crown and iwi.

29. We have concerns regarding the proposed additions of seaweed and finfish species to existing marine farms. Introducing invasive or non-endemic seaweed species poses ecosystem and biosecurity risks. New finfish species could have impacts on the marine environment and fishing. Without careful consideration and management, these proposals could negatively impact on Māori rights and interests.

Recommendations

30. Te Ohu Kaimoana recommends that any changes made to the NES-MA should:

    a. clarify in new regulations that research and trials in new locations can only take place in aquaculture settlement areas, or in areas under consideration for gazettal as aquaculture settlement areas, when led by, or with permission from, relevant IAOs;

    b. ensure that tangata whenua views are sought on applications to undertake research and trials in new locations. Applicants should be required to consult with tangata whenua and provide any relevant information to the council considering their application;

    c. ensure that as part of any new regulations for aquaculture-related research and trials in new locations, consent authorities have the ability to guarantee these activities occur in appropriate areas. Listed matters of discretion and matters of control for these activities (which consent authorities can use to decline applications or impose conditions on the consents) must enable

councils to carefully consider tangata whenua views and any impacts on fisheries and aquaculture settlements;

d. strengthen and broaden proposals that consent authorities will have discretion to consider the effects on Māori access to coastal areas of significance for replacement coastal permit applications. We recommend consent authorities have discretion to decline applications based on broader tangata whenua values, interests and settlement rights, particularly if applicants are seeking to change farmed species. This should be coupled with a requirement to engage with tangata whenua;

e. ensure that engagement with tangata whenua, including limited notification of customary rights and marine title groups, is guaranteed for any activities that could have adverse impacts or that are proposed in new, previously unconsented locations;

f. ensure that any addition of seaweed and finfish to existing marine farms, particularly *undaria pinnatifida*, is managed to mitigate any biosecurity risks or negative impacts on fisheries and aquaculture settlements. This could be achieved by designating the addition of *undaria pinnatifida* and any seaweed species that are not endemic to an area to marine farms as *restricted discretionary* rather than *controlled* activities; and

g. support consenting authorities to confirm that proposed activities would not have further adverse effects on fishing before the activities can take place. Any activities that could pose further risks to fisheries, including customary non-commercial and customary commercial Māori fishing rights and interests, should have appropriate safeguards in place.

Our analysis of the proposed regulation changes

Application of regulations to Tasman and Waikato areas, and newer marine farms

31. Currently, the NES-MA regulations do not apply in areas of the Tasman district and the Waikato region's Wilson Bay Marine Farming Zone (as defined and mapped in Schedule 5 of the NES-MA).

32. We support the proposal that new additions to NES-MA will apply in these areas, including for applications to change or cancel consent conditions, and applications for research and trial activities. This proposal will ensure greater consistency in changes to marine farms across the motu. For IAOs with aquaculture settlement space in these regions, this change will ensure they have parity of access to new provisions.

33. We also support the Regulation 25 proposal, that marine farms consented after the introduction of NES-MA can apply for replacement consents and make changes to consents through NES-MA. This will provide greater consistency and flexibility for iwi involved in aquaculture after 2020 to make best use of space. It will also provide confidence to iwi considering taking aquaculture settlement space, as there will be more opportunities to adjust how the space is used over time.

Replacement coastal permits (with no change in species)

34. We acknowledge the proposals to amend the matters of discretion for decisions on replacement coastal permits, including applications for changes to the marine farm structures. The amendments proposed to Regulations 18(d)(i) and 33 would provide for consent authorities to have discretion to consider effects on Māori access to coastal areas of cultural significance, regarding things like marine farm layouts and structures, when considering replacement coastal permits.

35. Although we see value in this provision, and would be open to this if IAOs across the motu express support, we think that this should be further strengthened to ensure that this consideration is based on engagement with tangata whenua. We believe it may be more effective to retain the wording of regulation 17(2) and provide that one of the matters of discretion for replacement coastal permits is *the effects of the activity on tangata whenua values*. This, coupled with a requirement to engage with tangata whenua, would ensure that access to coastal areas of significance and any broader tangata whenua concerns about replacement structures can be taken into account. We recommend that the wording used when drafting the changes is consistent with the current regulations, articulating that these matters of discretion relate to *tangata whenua*. We believe this would strengthen the direction that authorities must focus on impacts for those with mana moana and mana whenua in affected areas. We are also interested in how councils will be supported to implement this in practice, so that a partnership approach can be taken for these considerations.

36. We support the proposed changes to Regulation 29 and 32, so that applications for replacement consents with altered structures (both subsurface and surface) do not need to also change species. For iwi with aquaculture settlement space, we see that these changes will provide more flexibility to implement new farming structures and replace old structures with better technology, without having to also change species.

37. Alongside Regulations 29, we support the proposed change to Regulation 30, clarifying that two matters of discretion which are related to species change do not apply for changes to subsurface structures. We are satisfied that the matters of discretion listed in Regulation 18, in addition to the hydrodynamic effects, will ensure councils can refuse applications that would have negative ecological or other impacts.

Replacement coastal permits with changes to species

38. We appreciate proposed changes to Regulations 36 and 39. These would provide consent authorities with discretion to consider the effects on Māori access to coastal areas of cultural significance when considering applications for replacement coastal permits that involve changes to farmed species.

39. However, we recommend that these changes go further to protect Māori rights and interests by ensuring that consent authorities have discretion to consider the effects on tangata whenua interests and Treaty settlements. This would enable tangata whenua and councils to consider any broader impacts, including ecological risks to native species of significance. We believe that this would provide a necessary safeguard for councils to maintain Māori rights and interests guaranteed under Treaty settlements. This includes applications that could adversely affect Māori fishing rights or the Māori Fisheries Settlement.

40. The proposed amendment to Regulation 44 appears to maintain the current provisions for limited notification of applications to change consented species. As this is maintained, we see that this will give consideration to CMT groups.

Schedule 6: Process for seeking views of tangata whenua on draft application

41. We support proposals to amend Schedule 6 (Regulations 1, 2, 4, and 5) to ensure that the process for seeking the views of tangata whenua on draft applications also applies when seeking a change or cancellation of consent conditions or research and trials under new regulations. We hold that these amendments are critical to ensure this process is maintained for the proposed new NES-MA functions.

New regulations for research and trials in existing space

42. The R2 proposal would make establishing structures or equipment for research and trials within the consented area of an existing marine farm a *permitted activity*, for a maximum of 12 months and covering

less than 20m^2. For iwi involved in aquaculture, this change would provide greater flexibility to trial new structures or undertake new measures of the environment. We support that the permitted activity conditions will include a requirement that tangata whenua be notified prior to undertaking the activity. We think this level of engagement will be appropriate, provided that tangata whenua consulted through this process agree that structures covering less than 20m^2 will not obstruct access to sites of cultural significance or pose any other risks.

43. We support the R12 proposal. Under this proposed regulation, applications to introduce fed aquaculture research and trials (such as for finfish) in existing farms that are not already consented for fed aquaculture activities would be classified as restricted discretionary activities. This would ensure councils have discretion to approve or decline applications. Fed aquaculture is more likely to adversely impact on fishing and the health of Tangaroa, so matters of discretion should take into account environmental considerations and tangata whenua views.

New regulations for research and trials in new space

44. We do not support the R17 proposal to make aquaculture-related research and trials in new locations (for up to 12 months and under 5m^2) permitted activities. Although the proposal for R17 includes a requirement that tangata whenua must be notified, this does not offer any genuine opportunity for input, objection or delay, particularly if concerns are raised. This undermines the intent of the Marine and Coastal Area (Takutai Moana) Act 2011, by allowing activities to proceed without the consent of CMT groups.

45. We are also concerned that there will be no discretion for consenting authorities to prevent activities in ecologically or culturally unsuitable areas, especially if such areas are not already correctly identified in regional coastal plans. This could also lead to unintended impacts on fishing.

46. We recommend that small scale research and trials in new locations are instead designated as either restricted discretionary or at least controlled activities, with matters for discretion or control including tangata whenua views and any impacts on fisheries or aquaculture settlements.

47. R18 proposes that research and trials in new areas for up to 3 years and under 2 ha are designated as *controlled* activities. As above, we have some concerns as to whether adequate safeguards are in place to prevent activities in inappropriate areas. We would only support these being designated as *controlled* activities if matters of control provide for tangata whenua views and any impact on fisheries or aquaculture settlements.

48. We also recommend that the conditions for research and trial activities in new space include a requirement that activities may only be located within an aquaculture settlement area, or within any areas under active consideration for gazettal as aquaculture settlement areas, when led by, or with express permission from, the relevant IAOs. This would safeguard settlement space and ensure that the Crown and IAOs can negotiate settlement space in good faith, without unexpected activities taking up the space.

49. Before settlement space is gazetted, there is often a process to assess and identify whether space is suitable, involving surveys and in-depth reporting. This prevents gazettal of unsuitable space, e.g. without the necessary conditions to support marine farming, or where marine farming would adversely impact on the environment. This due diligence gives the Crown and IAOs confidence in the space and minimises the number of gazette notices that the Minister for Oceans and Fisheries must sign to adjust the parameters of settlement space while this process is ongoing.

50. We recommend that the R20, R23 and R26 proposals to introduce new clauses regarding tangata whenua views should be strengthened by also requiring the applicant to consult with tangata whenua and provide

details of any information about tangata whenua values provided, in line with Schedule 5, 5(1). We note that the requirement in the current regulations is to 'inform', but that the process provides opportunities for engagement.

51. For the R21 and R24 proposals to make research and trial activities in new locations for up to 7 years a restricted discretionary activity, we recommend that to use these regulations a requirement is added that the activities must not be located within an aquaculture settlement area, or within any areas under active consideration for gazettal as aquaculture settlement areas, without express permission from relevant IAOs. We also recommend that when drafting, consideration is given to ensuring tangata whenua have opportunities to indicate if the proposed areas for activities are appropriate or not.

52. We do not support the R28 proposal to preclude limited notification of CMT groups for research and trial activities in new areas for applications under R18, R21 and R24. We recommend that tangata whenua must be notified of all applications for research and trial activities in new areas.

New regulations for change or cancellation of consent conditions for aquaculture activities

53. We are open to proposals for new regulations regarding changing or cancelling existing consents for aquaculture activities. We see that many of these regulations will give iwi involved in aquaculture greater flexibility over how to best use their farms.

54. However, we have some concerns around R30, which would make adding species to existing farms a controlled activity. For most of the species listed that are similar to species currently being farmed (e.g. adding spat catching to an existing farm consented for that species, or adding new bivalves to a bivalve farm), we think that the risks of adding these species to existing farms will be relatively low. This is because we think that appropriate assessments would have already been carried out confirming the sites are suitable for these species, as part of the process to gain resource consent for these farms.

55. Although we are interested in greater supports for seaweed farming, we have some concerns about adding *undaria pinnatifida* or indigenous seaweeds not already present in an area to existing marine farms. We recommend that adding *undaria pinnatifida* or non-endemic species to existing farms could instead be designated as a higher risk activity with more safeguards in place, e.g. designated as a *restricted discretionary* activity. There may also be a way to add appropriate safeguards while maintaining these additions as *controlled* activities. Our intention is that consenting authorities would have opportunities to confirm that new species will pose no risks to the health of Tangaroa, ecosystems, taonga species, and fisheries (including Māori rights guaranteed through the fisheries and aquaculture settlements).

56. For seaweed species that are not already established and naturalised in the area of the application, councils should assess the risks and potential impacts of introducing these species, and determine whether the risks outweigh the benefits. This includes biodiversity considerations (an important consideration even in areas where these species are established) and risks to local ecosystems. We are open to discussions if research and evidence supports that adding some new seaweed species to established marine farms would not have any negative impacts.

57. We would also want to ensure that the addition of any new finfish species to existing farms does not result in further adverse impacts on fishing, including the Māori Fisheries Settlement, or on the health of Tangaroa more broadly. We recommend that these risks, including biodiversity risks, are appropriately managed through any changes.

58. For R36, we support that limited notification (of customary rights and marine title groups) should not be precluded, if the applicant seeking to change consent conditions has not sought tangata whenua views

within the past 12 months (in line with the current NES-MA provisions). Further to this, we recommend that tangata whenua should be notified of changes to species on marine farms, particularly seaweed and finfish species. This will provide opportunities for input from Māori on how any additional species may impact on the health of Tangaroa, taonga species, or the fisheries and aquaculture settlements.

Our position on proposed NZCPS changes

59. The NZCPS directly influences how regional councils plan and provide for activities in the coastal environment. These plans are critical to protect and provide for Māori rights and interests in this zone, including guaranteed through the fisheries and aquaculture settlements.

60. While we believe there is scope to provide greater support for aquaculture activities, we are wary of changes that would enable activities in the coastal marine environment that could have adverse impacts. Any changes to the NZCPS must not come at the expense of the health of Tangaroa or Māori rights and interests. We do not support changes to the NZCPS that would pose undue risks to the fisheries and aquaculture settlements, or to the health of Tangaroa. We have set out our response to the proposed policy changes that are specific to aquaculture and broader proposed policy changes below.

Summary of our response to the proposed changes

61. We do not support the proposed changes to make it easier to gain consents for resource extraction. We are also unsure if strengthening Policy 6 to make resource extraction, electricity transmission, specified infrastructure and renewable electricity generation priority activities will deliver tangible benefits. Without careful consideration in partnership with tangata whenua, these activities could adversely impact on Māori rights and interests in the coastal marine area.

62. We have concerns about the proposal to recognise that priority activities may have either a functional need (in line with the current drafting) or an *operational need* to be located in the coastal marine area. In practice, this could make it easier for detrimental activities to be consented. This could negatively impact on the health of Tangaroa and Māori rights and interests.

63. Changes to national direction have scope to support the Government's New Zealand Aquaculture Development Plan 2025 – 2030, which includes a focus on realising the potential of the aquaculture settlement, as one of four pathways towards a $3 billion industry. We support changes to the NZCPS that would recognise the importance of aquaculture in a way that upholds Māori rights, including proposed changes that will require decision-makers to take into account the cultural and environmental benefits of aquaculture. We support the proposed change providing for aquaculture within aquaculture settlement areas, however it is unclear to us how this will be supported and reflected in implementation, or if the NZCPS is the correct mechanism through which to make this change and support the Government's plan.

Broader proposed changes

We do not support making resource extraction a priority activity

64. We do not support the proposal to amend Policy 6 to direct that resource extraction is considered a priority activity. We are concerned that this change could lead to seabed mining being prioritised over other activities in the coastal marine area, with potential ongoing risks including long-term ecosystem disruption, harm to the health of Tangaroa, and adverse impacts on customary and commercial fisheries. In our view, these risks are significant and outweigh the uncertain benefits this change would deliver, noting that monetised costs and benefits have not been quantified by Government.

Many of the proposed priority activities are already recognised in the NZCPS

65. The provision of infrastructure, the supply and transmission of electricity, and the extraction of minerals are already recognised as important in the NZCPS in Policy 6 (1)(a). Following this we have concerns about strengthening Policy 6 so that electricity transmission, specified infrastructure and renewable electricity generation are priority activities. There is a risk that the impacts of these activities on Māori rights and interests will not be adequately considered following this change, as these activities will be prioritised over other activities and values. This could have a detrimental impact on the Māori fisheries rights and interests, or limit potential aquaculture settlement space. We think that the current wording in the NZCPS setting out that these activities are *important to* communities is already supportive of these priority activities.

If activities with an operational need are supported, potential risks should be mitigated

66. We have concerns about proposed changes to recognise that priority activities may have either a functional need or an operational need to be located in the coastal marine area, as we think these changes could negatively impact on the health of Tangaroa, or Māori rights and interests (6(1)(k) and 6(2)(f)). These changes could make it easier for priority activities that could be located elsewhere, such as industrial activities, to be established in the coastal marine area due to considerations such as time and cost. We are concerned that this change may diminish consideration of the adverse effects activities may have if they go ahead, e.g. the long-term impacts of seabed mining in the coastal marine area on ecosystems, and the flow on effects this could have. Our understanding, though we are open to other views, is that marine farming applications already have a functional need to be located in the coastal marine area, so there may be no need to change the wording in the current policy to enable aquaculture activities. Any changes to this policy should provide councils, iwi and communities with a clear direction to ensure activities do not negatively impact on Māori rights and interests and the health of Tangaroa. If *operational need* is added to this policy, this should be clearly defined so that consistent, balanced decisions are made across the motu.

Proposed aquaculture changes

We support recognising the importance of aquaculture in a way that upholds Māori rights

67. We support recognition of aquaculture in Policy 6, as it is not currently referred to. We also want to ensure that any wording changes in support of aquaculture activities are carefully balanced to protect Māori rights and interests. We are happy to work alongside iwi Māori with the Crown on any changes to the proposed wording.

68. We also support changes to Policy 8 requiring decision-makers to take into account the cultural and environmental benefits of aquaculture. Some types of marine farming (such as mussels, oysters and seaweeds) can positively impact on the health of Tangaroa. Marine farming can also provide benefits to tangata whenua, including through the use of aquaculture settlement areas. We think that taking these benefits into account will better protect and provide for the health of Tangaroa and Māori rights and interests in the coastal marine area.

The proposal regarding aquaculture settlement areas could support iwi

69. We are supportive of the proposed change to Policy 8 directing local authorities to provide for aquaculture activities within aquaculture settlement areas gazetted under MCACSA. There is a robust process supported by Crown officials, iwi Māori and Te Ohu Kaimoana to assess and confirm the suitability of settlement space for aquaculture activities before authorisations for gazetted space are transferred to IAOs, after settlement negotiations have concluded. Consideration in this process is given to other marine users

and care taken to identify space that will not conflict with other activities. We expect that due process will still be followed to secure resource consents for activities in these areas, including undertaking undue adverse effects tests to assess how proposed marine farms may impact on fishing. When progressing this proposed change, we recommend that an explanatory note is included to clarify that while authorisations for space in aquaculture settlement areas must be provided for by the Crown, and therefore enabled via council plans, that these areas will still be subject to checks and balances through the consenting process.

70. This policy change could better enable IAOs to make good use of settlement space, and give IAOs more confidence when taking settlement space that they will be enabled by councils to use it for aquaculture activities. At the moment, although best efforts are made by Crown officials working with regional councils to identify appropriate settlement space, there is no guarantee that IAOs will be supported to realise their aquaculture aspirations in these areas.

71. We are interested in whether this change could help to resolve some challenges that can arise in regions with older coastal plans. For example, to settle the Crown's new space obligation in one region to date, an aquaculture settlement area was gazetted for space where the current plan precludes resource consent applications for aquaculture activities. Although this obligation was settled in 2016, the authorisations for this space have not yet been provided to IAOs. There are also some regions where as a result of older plans, it can appear to IAOs as if aquaculture space has been provided for industry, with no space provisions made for settlement. In cases such as these, where the Crown and regional councils identify suitable aquaculture settlement areas in conflict with current planning settings, this policy change could enable councils to provide authorisations for space to IAOs, such that IAOs can submit resource consent applications for aquaculture activities.

72. We are unsure if the NZCPS is the best mechanism through which to realise the intent of this change, as it is not clear to us how it would be reflected in practice. For example, the NES-MA may be a better mechanism through which to realise the intent of this change (as outlined in paragraph 25). We are interested in understanding how councils would be supported to implement this policy. Clear guidance and central government supports could help councils assess applications for aquaculture activities in settlement space in a way that is enabling for iwi, while also ensuring councils are satisfied across criteria they have in place for marine farming approvals.

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