

Deemed Coastal Permit - Review of Conditions under Section 10(4) of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004



ISO 9001:2000
Form Ref CI 687

FILE NO: MFL048

APPLICANT: Marlborough Mussel Company Limited

SITE OF APPLICATION: Crail Bay, Central Pelorus east

SITE NO: 8513

PROPOSAL: To review the conditions of the deemed coastal permit for the purpose of farming green mussels (*Perna canaliculus*), scallops (*Pecten novaezelandiae*), dredge oysters (*Tiostrea lutaria*) and Pacific oysters (*Crassostrea gigas*) in accordance with the provisions of the Act.

GRID REFERENCE: E 2591468 N 6012037

Background/Introduction

1. Marine farm licence MFL048 was issued to the original consent holder in June 1978 for a 4.5ha site. It was issued under the Marine Farming Act 1971.
2. In 1996 Council granted resource consent U960385 for a 1.09ha extension to the north. This consent expired in August 2006 and has been replaced by consent U060533.
3. Under the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (hereafter referred to as the Aquaculture Reform Act) the marine farm licence is now deemed to be a coastal permit under the Resource Management Act 1991 (RMA). Under section 10 of the Aquaculture Reform Act Marlborough District Council is reviewing the conditions of all such licences and amending them to be consistent with the RMA and with current consents.
4. All of the existing licence conditions will be removed, with the exception of area, species, structures and site specific conditions. New standard conditions will be added, as appropriate. Lighting and marking will be reviewed and a new plan issued, consistent with the requirements for a coordinated scheme within the bay. A new term will apply, as detailed below.
5. As the process is essentially an administrative one the review process is not being notified as it is deemed there are no affected parties. The report and review will be undertaken by Council and approved by a Commissioner appointed for the purpose.
6. The associated resource consent is not included in this review, but may be reviewed under s127 or s128 of the Resource Management Act 1991.

Evaluation

7. The farm is currently approved for up to eight longlines in a single block, occupying the 4.5ha area of MFL048. The farm is currently required to be lit with two lights, and comply with standard conditions of marking with respect to orange buoys, identification, etc.

8. From surveys done by Council staff in 2004/5 the structures were offsite to seaward. This was validated under s53 of the Aquaculture Reform Act in August 2006. Note that the validation only moves the boundaries of MFL048; the boundaries of the extension have not changed and, in reality, the validation makes the extension redundant.
9. There are no known issues with respect to navigation or general operation and the farm generally complies with the Maritime NZ Guidelines for location of marine farms.
10. The farm was originally licensed for a term of 14 years from 1 September 1978, and an extension granted by variation for a further 14 years, to 31 August 2006. Under section 10(8) of the Aquaculture Reform Act a deemed coastal permit is to be treated as if it had been granted for a term of 20 years beginning on the commencement of the Act. The Act commenced on 1 January 2005, therefore this licence now expires on 31 December 2024.
11. The original licence was only for the farming of mussels. A variation in 1992 added scallops and oysters (x2) to the list. These four species are transferred to the Fisheries register.
12. The consent holder is responsible for rationalising any differences in term or species between the various licences, resource consents or marine farming permits.
13. The licence comprises the original document dated 27 June 1978 and two variations, dated November 1991 and September 1992. Conditions are detailed under sections 1(a-k), 2 and 3(a-c) of the original and sections 4(A-M) of the second variation. There are no conditions attached to the first variation.
 - (a) Conditions 1(a-k) of the original deal with licence fees, authorities, operations and practices, compliance, access and assignment.
 - (i) The general conditions referring to the provisions of the Marine Farming Act 1971 are superseded and the Act has been repealed.
 - (ii) Licence fees under the Act have been replaced by levies under the Fisheries Amendment Act (No 3) 2004, and no longer form part of the conditions of the deemed coastal permit.
 - (iii) The conditions referring to operations and practices become the responsibility of the Ministry of Fisheries under the registration provisions of the Fisheries Amendment Act (No 3) 2004. They no longer form part of the conditions of the deemed coastal permit.
 - (iv) The conditions relating to public access and to structures have been replaced with new conditions.
 - (v) The conditions relating to the 'expiration, determination, forfeiture or surrender of the licence' have been replaced with new conditions.
 - (vi) The conditions relating to assignment and subletting have been superseded by conditions under the Aquaculture Reform Act and under the registration provisions of the Fisheries Amendment Act (No 3) 2004. They no longer form part of the conditions of the deemed coastal permit.
 - (b) Condition 2 of the original refers to the Crown's obligations with regard to access. This has been superseded by provisions under the Resource Management Act 1991 and no longer forms part of the conditions of the deemed coastal permit.
 - (c) Conditions 3(a-c) of the original relates to lapse and forfeiture and are replaced by s125 of the Resource Management Act 1991 and no longer form part of the conditions of the deemed coastal permit.

- (d) The location plan and structures diagram (ref: MFL045 – s53 review) are included in the new conditions.
- (e) The conditions of the variation deal with species, sourcing of stock, stock movement, disease control, record keeping and packaging and become the responsibility of the Ministry of Fisheries under the registration provisions of the Fisheries Amendment Act (No 3) 2004. They no longer form part of the conditions of the deemed coastal permit.

Conclusion

- 14. Under the provisions of s10 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 marine farm licence 048 is a deemed coastal permit granted under the Resource Management Act 1991.
- 15. Under s17 of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 the holder of the deemed coastal permit must be treated as a registered fish farmer under the Fisheries Act 1996, and shall automatically be registered as same by the Ministry of Fisheries.
- 16. New conditions for the deemed coastal permit are attached, together with location plan, structures diagram, and a revised lighting and marking plan.
- 17. If required, under s120 of the RMA consent holders may appeal the review of consent conditions.

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D.G.HOSKINS
On Behalf of Marlborough District Council

7 April 2008

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