

39A.0 Aquaculture Management Area Zone

39A.1 Preamble

This section of the Plan provides for the implementation of specific and general objectives and policies for aquaculture management areas as detailed in Volume One of the Plan. It also provides for the specific requirements for aquaculture management areas and aquaculture activities as set out in Part 7A of the Act.

Aquaculture management areas are included in this Plan as Aquaculture Management Area Zones. There are three processes available to include new Aquaculture Management Areas Zones in the Plan - a Council-initiated Plan Change; a standard Private Plan Change requested by any person or organisation; and a Council Invited Private Plan Change (IPPC) where the Council invites applications to establish new AMAs.

Part 7A of the Act specifies the processes that must be followed by the Council for the establishment of aquaculture activities in the coastal marine area. Responsibilities of others, such as the Chief Executive of the Minister of Fisheries, the Minister of Conservation and the Trustee under Section 9 of the Maori Commercial Aquaculture Claims Settlement Act 2004, are also set out in this part of the Act. Chapter 39A of the Plan sets out those matters which must be contained in a Plan in order for resource consent applications for aquaculture to be considered for approval.

Volume One, Section 9.1.2, Aquaculture Management, describes the methods by which the right to apply for resource consents for marine farming will be obtained.

39A.2 General Rules

General Rule 39A.2 shall have no effect until Plan Change 53 becomes operative and the reviewed objectives, policies and methods for aquaculture in the Proposed Marlborough Regional Policy Statement have been notified.

39A.2.1 Alternative Allocation Method for the Right to Apply for Available Water Space in Aquaculture Management Areas

These General Rules specify the method that will be used to apply for coastal permits for marine farming in operative AMA Zones arising from standard Private Plan Change requests under Schedules 1, Part 2, and 1A of the Act. These General Rules do not apply to AMA Zones arising from Council Invited Private Plan Changes (IPPC).

39A.2.1.1 Circumstances under which the Alternative Allocation Method will apply

Rule 39A.2.1.2 shall be used to obtain the right to apply for coastal permits for marine farming in operative AMA Zones, where the AMA Zone, or the part of the AMA Zone, arose from a Private Plan Change under Schedules 1, Part 2, and 1A of the Act. Where Rule 39A.2.1.2 refers to a Private Plan Change, it is referring to the Private Plan Change which successfully resulted in the creation of the operative AMA Zone.

39A.2.1.2 Alternative Allocation Method

Under the circumstances specified in Rule 39A.2.1.1, the right to apply for coastal permits for marine farming will only be obtained by way of the following methods:

39A.2.1.2.1 One Private Plan Change Request

The right to apply for coastal permits for marine farming for an area in an AMA Zone arising from a single Private Plan Change shall be obtained by the person who requested the Private Plan Change.

39A.2.1.2.2 More than One Private Plan Change Request for the same area

Where more than one Private Plan Change request was made to Council for the same area of an AMA Zone, the right to apply for coastal permits for marine farming for the overlapping area shall be obtained by the person whose Private Plan Change request was the first to either:

- i. provide all required information; or
- ii. decline to provide further or additional information requested by the Council in writing when the Council or the Environment Court determines that the requested information was not required to be provided.

And the private plan change successfully resulted in the creation of an operative AMA zone for that area. Subject to Rule 39A.2.1.3 (which relates to reservations for commercial fishing), this right to apply for coastal permits for marine farming shall occur on the date on which the Private Plan Change becomes operative.

39A.2.1.2.3 The Right to Apply for Coastal Permits for Marine Farms not taken up

Where the right to apply for a coastal permit for marine farming has been obtained by a person under Rules 39A.2.1.2.1 or 39A.2.1.2.2, and:

- i. The right to apply for a coastal permit for marine farming by that person lapses; or
- ii. A coastal permit for marine farming is granted to the person that has the right to apply, but it lapses;

authorisations within that area shall be offered by way of public tendering.

For the purposes of Rule 39A.2.1.2.3 i., "lapse" shall have the meaning specified in Section 165N of the Act, as if the right to apply for a coastal permit for marine farming was an authorisation.

39A.2.1.2.4 Offer of Authorisations following Cancellation or Expiry of Coastal Permits

When:

- i. the term of a coastal permit for marine farming expires and a new coastal permit is not granted to the existing permit holder; or
- ii. a coastal permit is cancelled under Section 126 of the Act;

authorisations within that area if offered shall be by way of public tendering.

39A.2.1.3 Reservations Relating to Commercial Fishing

When an AMA Zone becomes operative and is subject to a reservation relating to commercial fishing, Sections 165G and 165J of the Act shall apply with all necessary modifications as if the right to apply for a coastal permit for marine farming was an authorisation.

39A.2.1.4 Right to Apply for Coastal Permit does not Confer Right to Coastal Permit

The obtaining of a right to apply for a coastal permit for marine farming does not confer any right to the grant of a coastal permit in respect of the space that the right to apply relates to.

39A.2.1.5 Right to Apply for Coastal Permit Transferable

The right to apply for a coastal permit for marine farming or any part of it may be transferred by its holder to any other person, but the transfer does not take effect until written notice of it has been received by the Council. Rule 39A.2.1 applies to the person to whom the right to apply is transferred.

