31 May 2024

Government making waves with RM reform – the Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Bill

Government has proposed the Bill to see 1,200 marine farms obtain a 20-year resource consent extension. Read more about the Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Bill here.

The Government have identified roughly 1,200 marine farms that currently require one or more resource consents to operate. An estimated 200 of these marine farms have consents that will need to be renewed by the end of 2024 and a further 150 marine farms will require renewed consents by 2030. This equates to just under 30% of existing marine farms throughout New Zealand. Moreover, marine farm consent holders have provided feedback to the Government that the current processes for obtaining a replacement consent or renewing a consent are costly, time-consuming and create uncertainty which in turn impacts their ability to invest and improve their farms and assets. The Resource Management (Extended Duration of Coastal Permits for Marine Farms) Amendment Bill is intended to provide further stability and certainty for marine farm consent holders by extending the duration of existing consents set to expire before 31 December 2050 (**Extant Consents**). It also contains a bespoke mechanism for consent authorities to review the conditions of consents extended under this Bill.

Extension timeframes

Marine farm consent holders typically have to apply under section 165ZH of the RMA to obtain a new consent to replace a resource consent (**Replacement Consent**) that is about to expire.

However, under this Bill, marine farm consent holders can now acquire a 20-year extension of their extant consent automatically, without application (**Extended Extant Consent**). The 20-year extension cannot be provided beyond 31 December 2050. This does not change current resource consents with expiry dates beyond 2050.

Process with Replacement Consent applications

If an application for a Replacement Consent has already been made when the Bill becomes law, consent holders have a choice. They can decide to continue operating under their Extended Extant Consent or continue with their Replacement Consent application, generally for a longer term of anywhere between 20 to 35 years.

Any decision will be based on individual circumstances of consent holders and when the Replacement Consent application was lodged. If the application was recently lodged it may be attractive to rely on the Extended Extant Consent for certainty but it is worth noting that if you rely on the Extended Extant Consent there are going to be a significant number of replacement consent applications to be considered in 2050. It also may be advantageous to continue with a Replacement Consent application if more favorable conditions are being sought (such as a longer term), and particularly if the application has progressed past the initial steps towards hearing. A point to note is that if a consent holder decides to continue with an application for a Replacement Consent they are able to operate under the Extended Extant Consent until its application is determined and the Replacement Consent is in force.

Once this decision is made a consent holder must notify the relevant consent authority of the decision and the consent they will be operating under. This must be done within 2 months from the Bill coming into force.

If a consent application has already been decided before the Bill comes into force but it is subject to an appeal that results in the permit being granted, that consent can also be extended. However, this extension is not available

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until all rights of appeal are exhausted or if on appeal the application is declined or withdrawn.

Review of conditions

The existing conditions continue to apply to an Extended Extant Consent unless a change is required as a result of the extension or alternatively if the resource consent is subject to an appeal when the Bill comes into force which changes the conditions.

This Bill also provides consent authorities with additional powers to undertake a 'one-off' review of the conditions of an Extended Extant Consent under this Bill. This review must occur no later than 2 years after the Bill comes into force. It also must not amend the duration of the Extended Extant Consent as extended under this Bill or change the species or consented area of the permit.

The purpose of a 'one-off' review is to promote the sustainable management of natural and physical resources in relation to marine farms without preventing the resource consent holder from carrying out the activity to which the resource consent relates to. Subsequently, a consent authority must first set out why the proposed review meets the purpose of review under this Bill, to the Director-General of the Ministry for Primary Industries (Director-General) for their concurrence. Without this, a review cannot proceed.

In addition to this requirement, the Bill also sets out:

- the process of applying to the Director-General to undertake a review;
- the notification of the review to relevant iwi organizations
- the decision-making process following a completed review; and
- the right of appeal process following a decision.

Next steps

The Bill is currently with the Primary Production Select Committee. Their report on the Bill is due on 18 July 2024. It is intended that these reforms will then be passed by the end of July 2024.

Want to know more?

If you have any questions about the RM Reform please contact our specialist Resource Management team.

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