

# Table 4.1 definitions

## King salmon/Chinook salmon

King salmon/Chinook salmon, *Oncorhynchus tshawytscha*, is part of the Salmonidae family.

## Marine farming licence (MFL)

These were issued by the Ministry of Agriculture and Fisheries under the Marine Farming Act 1971 and then became 'deemed coastal permits' under the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004. Feed discharge limits are not specified in the conditions on MFLs. The size of net pens is sometimes specified. Under the Act, MDC was able to (and did) carry out a review of the conditions on all the original MFLs. Those reviews were intended to and largely did align the consent conditions between MFLs and the related resource consent(s). For NZKS sites, invariably the original MFL has been augmented by one or more later resource consents which cover the structures and/or the discharge of feed and/or additional species and/or other ancillary activities.

## Marine farming permit (MPE)

These were issued by the Ministry of Fisheries, now MPI, under the Fisheries Act 1983 and then became 'deemed coastal permits' under the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004.

## Permit area/permitted areas

There are several types of permitted areas mentioned in a resource consent:

- Pen surface area (minimum):  
The actual surface structure of the pen and/or cages permitted under the consent (i.e. usually the smallest area mentioned in a resource consent).
- Pen boundary area:  
The boundary that a pen or cage, or a group of pens or cages, can be placed within.
- Marine farm boundary area:  
The area able to be used to undertake the business of salmon farming (including accommodation, barges etc). Sometimes this is called the licence area.
- Overall consent area (maximum):  
The extreme outer area covered by the consent (i.e. it includes the area between navigation markers in the consent). The distinction is best understood in that if NZKS (or indeed any other MPI-registered salmon farming organisation) wished to add a third farm into the Blue Endeavour navigational area of 1000 ha it would trigger a public consultation process. Personal communication with Marlborough District Council, 25 May 2023.

Importantly, the RMA requires consent authorities to evaluate the proposals in front of them, not second-guess changes that may/may not occur in the future. If the present proposal is consented, and the consent holder seeks a change in the future (such as to increase permitted feed or the pen boundary area), then the RMA provides direction on the process to be followed (s 127). The same notification provisions that governed the initial application are in play – but the focus is on the extent of the change (i.e. not a re-litigation of the original consent). Plus, the consent authority must consider every person who made a submission the first time around, or who may be affected by the change. Personal communication with Morgan Slyfield, 13 June 2023.

## Permitted feed discharge

The conversion of salmon to feed was 1:1.66 as at 2023 (see FY2023, p. 10). The permitted feed discharge is the maximum consented feed discharge, and may differ from actual feed discharged.

For feed discharged at all the salmon farms see McGuinness Institute. (4 May 2017). *Workings to support the Letter to the Minister on the MPI Proposal*. Retrieved 18 April 2023 from [www.mcguinnessinstitute.org/wp-content/uploads/2017/05/20170508-McGuinness-Institute-%E2%80%93-Letter-to-the-minister-%E2%80%93-Figures-1-2-and-3.pdf](http://www.mcguinnessinstitute.org/wp-content/uploads/2017/05/20170508-McGuinness-Institute-%E2%80%93-Letter-to-the-minister-%E2%80%93-Figures-1-2-and-3.pdf)

For permitted feed discharged see the relevant resource consents on the Marlborough District Council website (each farm has a site number, an application number and related consents, see table on infographic 5 in this series). However, some resource consent applications, particularly marine farm licences, are buried within the marine farm licence history. 'There is often a lot of superfluous associated information in these files ... In most MPE instances we do not hold a record of the original application because that was a process managed by the Ministry of Fisheries under the Fisheries Act 1983, and not by MDC' (personal communication with Marlborough District Council, 31 May 2023). See also McGuinness Institute. (4 May 2017). *Workings to support the Letter to the Minister on the MPI Proposal*. Retrieved 18 April 2023 from [www.mcguinnessinstitute.org/wp-content/uploads/2017/05/20170508-McGuinness-Institute-%E2%80%93-Letter-to-the-minister-%E2%80%93-Figures-1-2-and-3.pdf](http://www.mcguinnessinstitute.org/wp-content/uploads/2017/05/20170508-McGuinness-Institute-%E2%80%93-Letter-to-the-minister-%E2%80%93-Figures-1-2-and-3.pdf)

## Related resource consents

All consents other than the existing resource consents that relate or have related to the site.

## U# (the number given by MDC)

This denotes a resource consent application made to the Marlborough District Council under the Resource Management Act 1991.

# Table 4.1 references

## 1. Number of pages

The MDC Property Files Online website includes a number of links for each resource consent, namely 'decision document', 'resource consent monitoring', 'working papers', 'planners report', 'processing' and 'application'.

The Institute's key interest is in the decision that enables the permitted activity (e.g. area, feed discharge, expiry date, etc). This is usually found in the decision document. Where the MDC uses the term 'decision document' twice for a single consent (see example from MDC website below), we have combined both documents into one PDF and added them to our website table: [www.mcguinnessinstitute.org/nzks-submissions/](http://www.mcguinnessinstitute.org/nzks-submissions/)

Note: There are a few older consents where key information can be found in the working papers.

MDC has stated that when the resource consent files were digitised, significant time and effort was expended to ensure the decision document was true and complete. That said, there is no guarantee that those records are completely free from error (personal communication with Marlborough District Council, 29 June 2023).

The page numbers in the Institute's table refer to the PDF that we have created so that pages can be easily found and cited.

**Resource Consent Number**

MFL001

**Keyword** (optional)

**SEARCH**

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^ **Marine farm licence 001 for a marine farm of 4.5ha in Ruakaka Bay for the purpose of marine farming chinook salmon (*Oncorhynchus tshawytscha*), snapper (*Chrysophrys auratus*) and green shell mussels (*Perna canaliculus*).** 07 Nov 2008  
 MFL001

∨ **Resource Consent Monitoring** 27 Jul 2009  
 MFL001M

∨ **Working Papers** 11 Sep 2009  
 MFL001WP

**Planners report (116KB)** 28 Jan 2009  
 Record: 095023

**Decision Document (2MB)** 19 Jan 2012  
 Record: 1214853

**Section 127 Application (48MB)** 20 Mar 2020  
 Record: 2052760

**Section 127 Decision Document (158KB)** 19 May 2020  
 Record: 2081126

## 2. Site 1: Otanerau (site 8396)

U040217 and MPE763 resource consents are part of a dual permit regime. Importantly MPE763 has not been surrendered, expired or cancelled. See *MDC Planners Report (2007)*, file number MPE763, para 5 & 6, p. 1. MPE763 was not found, but the key information is generally found in U040217.

|  |        |  |
|--|--------|--|
| 6. To clarify, the following approvals are currently active: |        |  |
| MFL446   | 3.25ha | Marine farm licence: for occupation, structures and activity.                                    |
| U040217  | 7.55ha | Resource consent: for occupation, structures, activity and discharge to the coastal marine area. |
| MPE763   | 7.55ha | Marine farming permit: for activity.   |

Note 1: A MAF planner's report (letter dated 2 Nov 1989) implies the farm was originally established on this site under a 'temporary marine farming licence' granted to Regal Salmon Ltd. Importantly, MDC has no evidence of a vary/add/delete of a previous MFL446 consent, so the oldest active resource consent date for this site is 11 July 1990. See Table 3: Copies of active NZKS resource consents by site on the Institute's website for a copy of the 1989 planners report.

Note 2: MPE763 contains a proposed site plan (dated June 1995) building on the MFL446 consent, granted on 11 July 1990. The proposed site plan is for the creation of a 7.55ha mooring area around the salmon cages. U950635 was granted on 19 February 1996 and expired in 2004. This led to a new application and resource consent called U040217 which is active today.

### 3. Site 2: Ruakaka (site 8274)

#### (a). History of the site

**1975:** 'Marine farm licence MFL001 was issued to the original consent holders in October 1975. Prior to this there had been a limited amount of farming under a special marine farming permit. The licence was initially for a 0.4046ha site in Crail Bay but was then transferred to Ruakaka Bay and taken over by Regal Salmon. In October 1991 a variation to the licence extended the area to 4.50ha. The licence was issued under the Marine Farming Act 1971.

'In the following years three resource consents were issued — for extensions to the site, for structures, and for discharge of feed.

'Resource consent U950656 was for a 6.803ha extension to the licence area, to allow for an enlarged anchorage zone; this made a total site of 11.303ha.' See 2007 review of consent conditions on MFL001, completed 16 October 2007.

**2011:** See excerpt from *New Zealand King Salmon Report* (2011), p. 13. Retrieved 29 May 2023 from [epa.govt.nz/assets/FileAPI/proposal/NSP000002/Applicants-proposal-documents/6e18a60c5b/Appendix-2-NZ-King-Salmon-Report.pdf](https://epa.govt.nz/assets/FileAPI/proposal/NSP000002/Applicants-proposal-documents/6e18a60c5b/Appendix-2-NZ-King-Salmon-Report.pdf)

There are three full-time permanent employees located at Waiau.

#### 31. Ruakaka farm:

The Ruakaka Bay farm, in Queen Charlotte Sound was established in 1985 as a small research based, one-acre farm by the South Island Salmon Partnership (the precursor to Regal Salmon). It is located on the site of the first registered mussel farm in New Zealand and still retains Marine Farm Number 1 status. Previously the South Island Salmon Partnership had operated salmon sea pens in Elie Bay however the elevated water temperature at this site meant that smolt survival was low and stock losses due to scale loss were high. The site, the oldest of NZ King Salmon's farms, is characterised by water depths of around 35m and low current flows (average mid-water flow of 3.7 cm/s). Over an annual period, water temperatures at this site range from ~11-18°C. Salmon are raised in 20 steel sea pens (20x20m) at this site. As at early 2011 the site produces some 1000 metric tonne (mt) of salmon per annum.

NZ King Salmon Report

13 August 2011

**2023:** NZKS has indicated in its annual report (FY2023) that results outperformed expectations (see p. 22). 'In a supplementary strategy, we have implemented a seasonal harvest, whereby we harvest smaller fish as additional volume prior to the summer months. Towards the end of FY23, we successfully completed the first seasonal harvest from Ruakaka farm in the Queen Charlotte Sound, resulting in an approximate increase of 750 tonnes of biomass' (p. 5).

#### (b). Resource consent history

##### **Impact of the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (ARA):**

The ARA commenced on 1 January 2005. It granted all existing farms (as at 1 January 2005) 20-year extensions, to 31 December 2024 (see s 10 (8)). Under s 10 (9)(c) of the ARA, a 'deemed coastal permit' is to be treated as if it 'includes all the coastal permits that would otherwise have been required under section 15 of the Resource Management Act 1991 to undertake those activities to the extent that they were being undertaken at the commencement of this Act [the ARA]'.

MFL001 is a 'deemed coastal permit' under the ARA, as it was granted by the Ministry of Fisheries on 29 September 1975 and issued under the Marine Farming Act 1971 (see s 8 (1) of the ARA). Importantly, the discharge of feed and size of net pens were not specified in the original 1975 decision for MFL001.

U021247 is not a 'deemed coastal permit' under the ARA, as it was issued under the RMA, not the Marine Farming Act 1971. As a result of processes outlined in Table 4.2 it was, over time, split into two parts, both using the same reference number: U021247 granted on 12 December 2005 applied to the farm discharges, and U021247 granted on 26 November 2007 related to occupancy of the site by structures, and use of the site generally for marine farming activity. The latter, relating to occupancy and use, expired on 21 May 2021. The former, relating to discharges, seems to have been relied on for some period of time, but by 19 May 2020 both NZKS and MDC shared the view that the discharges associated with Ruakaka were not in any way governed by U021247, but rather governed by the MFL001 'deemed coastal permit'.

This means that if NZKS wanted to increase the feed discharge above the amount discharged in 2004, it needed to seek a change to MFL001 to authorise that. This has not happened.

As an example of how significant changes operate in practice, a new condition was needed to increase the overall consent area (see U200301 (granted 15 October 2020)).

U200301 was granted on 15 October 2020 'renewing U021247 in part' (see pp. 1, 10 of U200301). U200301 only concerns the anchoring structures in a 6.8 ha area and in no way authorises a discharge of feed. Therefore the consent conditions in U200301 only concern some of the anchoring structures and not the surface net pens. Those net pens are covered under MFL001. MDC explains that if NZKS could only use the smaller area of MFL001 the cages would have to be much smaller and/or anchored quite differently than they are now (personal communication with Marlborough District Council, 15 June 2023). This resource consent (U200301) does not mention any species (see for example p. 7 of U200301).

## Disagreements over the maximum feed discharge limit

Institute's perspective: The limit is 1850 tonnes. As no condition existed on the maximum feed discharge under either MFL001 or U950656, the ARA reforms come into play, therefore the actual 2004 discharge prevails as the limit. This was about 1850 t in 2004 (see Cawthron Report, March 2012, Figure 2).

NZKS's perspective: The max feed discharge is 4000 t (Personal communication with NZKS, 18 August 2023).

MDC's perspective: The max feed discharge is about 2000 t. However, given the current discharge is below 2000 t (last year it was 1301 t, see Figure 17 in the SLR May 2023 report), MDC is not worried about the current situation (Personal communication with Marlborough District Council, 21 August 2023).

**Table 4.2: History of Site 2: Ruakaka (site 8274) by feed discharge**

| Date              | Permit                              | Event  | Relevance to duration  | Relevance to discharge   |
|-------------------|-------------------------------------|--|--|--|
| 29 September 1975 | MFL001                              | MFL001 issued under Marine Farming Act.  |  | No specific approval of discharge, no specific limit on discharge  |
| February 1996     | U950656                             | U950656 issued under RMA, coastal permit to occupy space and disturb seabed for moorings.  | Expiry date set: 24 May 2003.  | No specific approval of discharge, no specific limit on discharge  |
| 3 March 1999      | U980543                             | U980543 issued under RMA to install cages and barges of specific dimensions.   | Expiry linked to U950656.  | No specific approval of discharge, no specific limit on discharge  |
| 25 November 2002  | U021247 (structures and discharges) | NZKS applies for consent to replace and modify U950656 and U980543.<br><br>This application is for both structures and discharges.                       | 20-year term sought.<br><br>Pending determination of application, NZKS can continue to act under U950656 and U980543 (RMA, s 124). | Application requests:<br>An allowance to discharge up to 4000 t pa. States the extant farm does not have a specified maximum discharge.<br><br>Increase in area of occupation from 1.2786 ha to 2 ha.  |
| 19 March 2004     | U021247 (structures and discharges) | MDC grants application, for less than NZKS sought.   | To expire 15 years after the date of issue of a fisheries permit under the Fisheries Act.  | MDC declines 4000 t pa allowance, and authorises discharge up to 3200 t pa.<br><br>MDC declines to increase occupation area to 2 ha.   |
| Unidentified      | U021247 (structures and discharges) | NZKS appeals MDC decision.   |  |  |
| 1 January 2005    | MFL001                              | Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (ARA) comes into force.<br><br>Under s 10(1), MFL001 is deemed to be a coastal permit. | Under s 10(8) MFL001 is due to expire on 31 December 2024.   | Under s 9(c) MFL001 is to be treated as if it includes all coastal permits for discharge that would have been required under s 15, RMA to the extent those discharges were being undertaken as at 1 January 2005. For the 12 months prior to 1 January 2005 records show a discharge slightly less than 2000 t pa. NB. On 1 January 2005, NZKS was not authorised to occupy 2 ha at Ruakaka. Under U980543 and U950656 it was authorised to occupy up to 1.2786 ha within the approved 11.303 ha area. |

**Table 4.2: History of Site 2: Ruakaka (site 8274) by feed discharge**

| Date             | Permit                              | Event   | Relevance to duration   | Relevance to discharge  |
|------------------|-------------------------------------|---|---|---|
| 12 December 2005 | U021247 (structures and discharges) | Consent orders issued by Environment Court resolving NZKS appeal by agreement between all parties.<br>NB. U980543 and U950656 expire, under s 124, RMA.   | The consent orders replicate the MDC decision: permit expires 15 years after the date of issue of a fisheries permit under the Fisheries Act. | The consent orders provide for discharge to be increased (in stages) up to 4000 t pa. Occupation up to 2 ha.  |
| 26 November 2007 | U021247 (occupancy and use)         | MDC grants to NZKS a variation of conditions under s 128, RMA. NB. This splits U021247 into two approvals, both with the same reference number: in relation to discharge the 12 December 2005 U021247 provisions apply; and in relation to structures and marine farming activity, this variation on U021247 applies. | Expires on 7 May 2021. NB. Because of the splitting of U021247, this expiry applies only to the occupancy and use, not the discharge.         | Condition 3 states that the current discharge permit is U021247 (meaning the 12 December 2005 permit).<br>Condition 5 incorporates an allowance to occupy up to 2 ha. |
| 26 November 2007 | MFL001                              | MDC decides to vary conditions under s 10(4), ARA (review under this section being for making conditions consistent with the RMA) NB. This does not purport to be a permit for discharge. It is for 'Structures' and for 'Occupancy and Activity'.  | To expire on 31 December 2024.  | Condition 3 states that the current discharge permit is U021247 (meaning the 12 December 2005 permit).<br>Condition 5 incorporates an allowance to occupy up to 2 ha. |
| 19 May 2020      | MFL001                              | MDC grants NZKS application to vary condition 3 on the basis that condition 3 invalidates part of the deemed coastal permit established by s 10(9)(c), ARA.   |   | Removes from condition 3 the reference that the discharge is permitted under U021247, leaving the discharge governed by s 10(9)(c).                                   |

**4. Site 4: Crail Bay (site 8515)**

This is a second adjoining farm that has two overlapping consents held by different entities. Together they enable farming of a mix of species, including salmon.

Each of the two consent holders are responsible for compliance with their respective consents – Crail Bay Trust for MFL032, and NZKS for U090634 (the latter holds the consent for salmon farming). At present, the site is used solely by Crail Bay Trust and has not been used for salmon farming for many years. No monitoring reports are provided for the site.

Although MFL032 enables the farming of king salmon, the consent itself is held by Crail Bay Trust. And more importantly, MFL032 appears to be essentially worthless in terms of enabling salmon farming at the site. This is because (i) condition 3 of MFL032 says there can be no discharge of feed unless a specific coastal permit is gained for such, and (ii) when the ARA commenced on 1 January 2005 there was no salmon farming being carried out at the site. Contrast this with the Ruakaka farm, which is entitled to discharge feed under MFL001 because it was farming salmon on 1 January 2005 and thereby benefits from section 10(9)(c) of the ARA. Personal communication with Marlborough District Council, 15 June 2023.

Resource consent history can only be found in two parts: (i) [www.property.marlborough.govt.nz/trim/api/trim/11257059](http://www.property.marlborough.govt.nz/trim/api/trim/11257059) and (ii) [www.property.marlborough.govt.nz/trim/api/trim/11258485](http://www.property.marlborough.govt.nz/trim/api/trim/11258485). Personal communication with Marlborough District Council, 15 June 2023.

**5. Site 5: Forsyth Bay (site 8110)**

(a). MDC advised that MFL239 has not been surrendered, expired or cancelled.

(b). The Institute found the marine farm boundary area was 150 m x 450 m = 6.75 ha on p. 2 of U040412 (and MDC agrees). However, there is an inconsistency between the drawings on p. 2, with another drawing on MDC's file, which shows the boundary measuring 150 m x 400 m = 6.0 ha (see p. 24 of U040412). However, MDC considers it is sufficiently clear overall that the current consents are only for a 6.0 ha area. The Institute agrees.

(c). Permitted feed discharge can be found in MFL239 on p. 3 (out of 46). Condition 2 states that 'any feed artificially introduced into the marine farm shall comply with the terms of discharge consent U040412 and any subsequent approval thereafter'.

## 6. Site 7: Waihinou Bay (site 8085)

Resource consent history:

U000956 was granted on 18 October 2000, p. 11. However, we also note a second granted date of 2 December 2003 is mentioned in para 10, p. 3 of the High Court Judgement, 11 May 2012. Although the 18 October 2000 resource consent does not state a specific feed discharge condition, it does state on the front page '[t]o discharge up to 3000 metric tonnes of salmon feed annually'. U000956 expired on 31 October 2010 and has not been replaced.

MFL456 is considered a 'deemed coastal permit' under The Aquaculture Reform (Repeals and Transitional Provisions) Act 2004 (ARA) commenced on 1 January 2005. It granted all existing farms (as at 1 January 2005) a 20-year extension, to 31 December 2024 (see s 10 (8)). See Waihinou Bay High Court decision (11 May 2012) for a thorough explanation regarding the discharge consent. 'It would appear from the file that NZKS is relying on MFL456 to enable the discharge of feed at the site, much in the same way as the feed discharge is carried out at Ruakaka' (personal communication with Marlborough District Council, 15 June 2023).

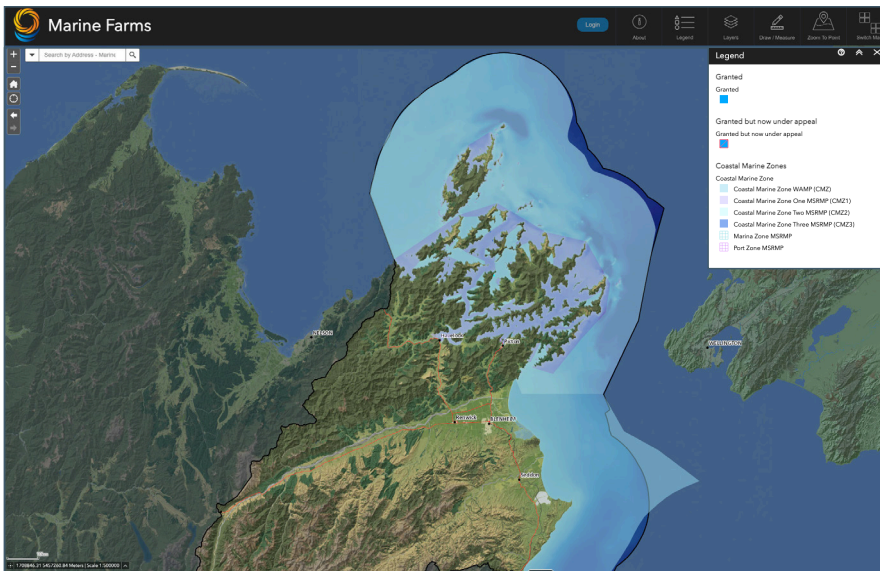
## 7. Site 11: Te Pangu (site 8408)

New Zealand King Salmon had asked the Marlborough District Council in 2018 to extend a farm further into the waters of Te Pangu Bay, in Tory Channel/Kura Te Au. 'To get consent for the farm, NZ King Salmon also had to ask for the marine farming zone be extended to include its farm, which required an alteration to the Marlborough Sounds Resource Management Plan. Councillors agreed to process the plan change in October 2018. The Marlborough Sounds Resource Management Plan had since been merged with two others to become the Proposed Marlborough Environment Plan, changing aquaculture rules in the region. The proposed new aquaculture rules came into effect on 2 December [2020], preventing clashes with the Government's marine farming rules, which came into effect a day earlier, but were still subject to public consultation.' NZ King Salmon withdrew its plan change request in December 2020. See Radio New Zealand (RNZ). (23 February 2021). King Salmon withdraws farm extension to 'do right' by Marlborough. Retrieved 17 April 2023 from [www.rnz.co.nz/news/country/436996/king-salmon-withdraws-farm-extension-to-do-right-by-marlborough](http://www.rnz.co.nz/news/country/436996/king-salmon-withdraws-farm-extension-to-do-right-by-marlborough)

## 8. Site 12: Blue Endeavour (site number to be allocated)

For 12 hectares figure for Blue Endeavour, see NZKS. (n.d.). Blue Endeavour. Retrieved 19 May 2023 from [www.kingsalmon.co.nz/open-ocean-blue-endeavour/](http://www.kingsalmon.co.nz/open-ocean-blue-endeavour/)

Below is an image of all existing farms and the Blue Endeavour site, showing a range of coastal zones determined and managed by MDC. See Marlborough District Council. (n.d.). Marine Farms. Smart Maps. Retrieved 30 May 2023 from [www.smartmaps.marlborough.govt.nz/smapviewer/?map=6af1f32120314f569f780dafba2647cf](http://www.smartmaps.marlborough.govt.nz/smapviewer/?map=6af1f32120314f569f780dafba2647cf)



9. Personal communication with Marlborough District Council, 31 May 2023. See also Marlborough District Council. (n.d.). Marine Farms. Smart Maps. Retrieved 30 May 2023 from [www.smartmaps.marlborough.govt.nz](http://www.smartmaps.marlborough.govt.nz)

10. Before 2011 a dual permit regime was in operation, whereby a marine farm required both a resource consent from MDC (e.g. U040217) and a marine farming permit under the Fisheries Act 1983 from the Ministry of Fisheries (e.g. MPE763). The old regime prior to the RMA 1991 is explained in a Cawthron Report 1208 (2006), *Factors controlling the development of the aquaculture industry in New Zealand: legislative reform and Social Carrying Capacity* (see part 2.2).

While the 2011 reforms shifted most of the management onto regional councils, any new aquaculture space requires: (i) MPI approval in the form of an aquaculture decision, known as the undue adverse effects test, and (ii) MPI to maintain a Fish Farm Register. For details on the undue adverse effects test and for registering as a marine farmer, see Ministry for Primary Industries. (n.d.). Undue adverse effects test for marine farms. Retrieved 12 June 2023 from [www.mpi.govt.nz/fishing-aquaculture/aquaculture-fish-and-shellfish-farming/setting-up-a-marine-farm/undue-adverse-effects-test-for-marine-farms](http://www.mpi.govt.nz/fishing-aquaculture/aquaculture-fish-and-shellfish-farming/setting-up-a-marine-farm/undue-adverse-effects-test-for-marine-farms) and Ministry for Primary Industries. (n.d.). Setting up a marine farm. Retrieved 12 June 2023 from [www.mpi.govt.nz/fishing-aquaculture/aquaculture-fish-and-shellfish-farming/setting-up-a-marine-farm](http://www.mpi.govt.nz/fishing-aquaculture/aquaculture-fish-and-shellfish-farming/setting-up-a-marine-farm)