



**SUBMISSIONS TO SELECT COMMITTEE
AQUACULTURE LEGISLATION AMENDMENT BILL (NO. 3)**

To: Committee Secretariat
Primary Production Select Committee,
Parliament Buildings
Wellington

From: Resource Management Law Association
c/o 4 Shaw Way
Hillsborough
AUCKLAND 1041
Attn: Karol Helmink

MAY IT PLEASE THE COMMITTEE:

1. This submission is made by the Resource Management Law Association (“RMLA”). It wishes to give both oral and written submissions in relation to the Aquaculture Legislation Amendment Bill (No 3) (“the Bill”).
2. The persons who wish to appear before the Select Committee on behalf of the RMLA are Helen Atkins and Kate Barry-Piceno.

Company Organisation/Background

3. The RMLA is concerned to promote within New Zealand:
 - a. An understanding of Resource Management Law and its interpretation in a multi-disciplinary framework;
 - b. Excellence in resource management policy and practice;
 - c. Resource management processes which are legally sound, effective and efficient and which produce high quality environmental outcomes.

4. The RMLA has a mixed membership. Members include lawyers, planners, judges, environmental consultants, environmental engineers, local authority officers and councillors, central government policy analysts, industrial representatives, etc.
5. Currently the Association has some 1,100 plus members. Within such an organisation there are inevitably a divergent range of interests in views of members. While the membership has been consulted in prepared this submission, it is not possible for the RMLA to form a single universally accepted view on the proposed reforms.
6. It should also be note that a number of members may be putting in their own submissions and those may represent quite different approaches to the views expressed here.
7. The RMLA only summarises below its submissions and intends to submit more detailed submissions at the time of presenting to the Committee in person.

General comments in relation to the amendments to the Aquaculture Legislation Amendment Bill (No. 3)

8. The RMLA supports the overall approach of the Bill's providing greater flexibility and efficiency to aquaculture. The RMLA considers there needs to be more statutory guidance and clarity to some of the amendments concerning the removal of the provisions governing AMAs under the RMA, and the differences, if any, with the new concept of an "Aquaculture Area" under the Reform Act.
9. It is considered that there needs to be more consistency with existing provisions relating to decision making processes for the Regional Council in its role and responsibilities as Consent Authority for significant and appealable aquaculture decisions relating to aquaculture areas.
10. The RMLA intends to comment more fully in oral submissions to the Committee on the following specific clauses relating to amendments to the Resource Management Act 1991 (Part 4):
 - a. **Clause 67** – the extension of s32 requirements to the Ministry of Aquaculture: **supported;**

- b. **Clause 68** – the extension of s36AA to cover local authorities being required to discount administrative charges. The removal of the previous ambiguity in the statutory wording from the 2009 amendments: **supported**;
- c. **Clause 69** – the amendments to s39B of the RMA in relation to accreditation of independent commissioners and hearing authorities: **supported**;
- d. **Clause 75** – the amendments to s88 to simplify the process in relation to the process for obtaining a replacement coastal permit to undertake an aquaculture activity consistent with the current Government’s policy intent to simplify and streamline the Act: **supported**;
- e. **Clause 85** – the proposed amendment to s125 to reduce the lapsing provision of five years within the Act for other consents to be a shorter lapsing period of three years for aquaculture activities is opposed. There is no clear rationale given for this amendment. There are often a number of genuine and valid reasons relating to funding, prior research or other issues to cause delays to commencement of an RMA activity, whether aquaculture, building development, or otherwise. The RMLA considers that this amendment may create a precedent for reducing the lapsing period for other activities without any demonstrable benefit from the amendment: **opposed**;
- f. **Clause 90** – the RMLA opposes the proposed restriction on limiting the time period for bringing judicial review proceedings (new s165L(6)). Based on similar grounds as raised above, there are a number of other types of activities or consent authority decisions where arguably similar grounds could be raised for reducing this period of time for judicial review proceedings. This proposed statutory restriction to Administrative law rights creates an unnecessary precedent and is a potential breach of natural justice. There may be a number of genuine grounds for a longer period than 15 days being required before proceedings are brought by an appellant. There are no overwhelming reasons why the persons right to bring judicial review proceedings is being restricted in this instance: **opposed**;
- g. **Clause 94** – the amendments to s165ZJ(1)(c) to remove the reference to an applicant’s conduct as one of the criteria to take into account when considering an

application by an existing permit holder. A determination of whether an applicant is currently undertaking “industry good practice” is subjective and may not be within the knowledge or expertise of the hearings commissioners: **supported**.

Conclusion

11. The RMLA supports the amendment of the legislation to promote opportunities for marine farming while maintaining appropriate environmental safeguards. The current legislative framework of compulsory zoning created by the previous Government has not been successful in promotion of sustainable development of aquaculture.

12. The RMLA supports an improvement to the integration of aquaculture into the RMA statutory regime. It considers the RMA is the appropriate framework for managing the coastal marine area and conflicts/competition over access and use of its natural resources.

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SIGNED BY:

Kate Barry-Piceno

On Behalf of RMLA

Dated: 11 February 2011