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Ministry for Primary Industries
Manatū Ahu Matua



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Proposed Ministerial Purpose for Issuing a Special Permit

Purpose:

This briefing paper seeks your decision on a new Ministerial purpose for issuing special permits under Section 97(1)(c) of the Fisheries Act 1996. The proposed purpose is to allow marine farmers whose businesses are affected by the oyster herpes virus to take wild (feral) Pacific oysters for relay/transfer purposes onto their marine farms for ongrowing and sale.

The new purpose will provide interim relief to the oyster farming industry affected by the virus.

Minister	Action Required:	Minister's Deadline
Minister for Primary Industries	Decide on recommendations provided in paper	When convenient

Executive Summary

1. The Ministry for Primary Industries (MPI) is seeking your decision to approve a new special permit purpose under s 97(1)(c) of the Fisheries Act 1996. If you decide to approve this purpose, MPI will be able to issue special permits to oyster farmers to collect wild (feral) oysters to relay/transfer onto their marine farms and later reharvest for sale.
2. The oyster herpes virus has significantly impacted the northern Pacific oyster farming industry. Recent losses in oyster production have caused some affected farmers significant economic stress and MPI is focused on helping the industry through this difficult time.
3. MPI recommends that you approve this purpose to help individual oyster farmers recover from the effects of the oyster virus. This purpose would be valid for three years.
4. Special permits would allow marine farmers to take wild oysters without the need to become commercial fishers and land wild oysters to a Licensed Fish Receiver; thereby avoiding additional costs to farmers
5. The taking of wild oysters under a special permit is subject to all food safety requirements (including the holding of a relay permit to transfer oysters onto a marine farm).
6. MPI has consulted with Maori and stakeholders on this proposal. 23 submissions were received – 10 support, 11 oppose, and 2 neutral.
7. Pacific oysters are an open access fishery and marine farmers are currently able to take wild oysters under commercial fishing permits. MPI has little control on where and how commercial fishers take and transfer wild oysters or quantities taken. MPI's ability to address the issues raised in submissions is better managed under special permits through the use of appropriate conditions.
8. The proposed special permits will limit farmers to gathering oysters from small, discrete areas to mitigate the effects of fishing on other fishers and address biosecurity risks. MPI highlights that relevant iwi will be consulted as part of processing individual special permit applications; this will provide a further opportunity to identify specific areas where oyster gathering should or should not occur to address iwi concerns.
9. The proposed special permits will be valid for a period of three years to allow the oyster industry to recover from the impacts of the virus. MPI expects farmers to operate under the normal commercial fishing requirements once the effects of the virus have been minimised. The oyster virus presents an unusual and special circumstance. Providing a cost effective mechanism for farmers to gather wild oysters will help the industry at this time.
10. MPI proposes to waive the special permit application fee. Helping oyster farmers through this difficult period is in the public interest.

Recommendations

11. The Ministry for Primary Industries recommends that you:

- a) **Note** the submissions received from Maori and stakeholders on the proposed new purpose.

Noted

- b) **Agree** under section 97(1)(c) of the Fisheries Act 1996 to approve a new purpose for special permits as follows:

“To provide interim relief so that marine farmers whose businesses are affected by the oyster herpes can take wild (feral) Pacific oysters for the purpose of relay and/or transfer onto a marine farm for ongrowing and sale without the requirement to hold a commercial fishing permit and land to a licensed fish receiver, subject to food safety requirements.”

Agreed / Not Agreed

- c) **Agree** that if approved, the special permit purpose will be valid for a maximum of three (3) years.

Agreed / Not Agreed

- d) **Note** that if approved, the Chief Executive of MPI will consider the waiver of the special permit application fee.

Noted

Christine Bowden
**Acting Manager, Spatial Allocations
Resource Management & Programmes**

Hon Nathan Guy
Minister for Primary Industries

/ / 2013

Rationale for Proposal

12. The oyster herpes virus has significantly impacted the Pacific oyster farming industry in the upper North Island (particularly Northland, Auckland, and Waikato) over the past two years. The virus causes high mortality rates of farmed oysters. The industry reports that farm production is down to about 25% of pre-virus levels and this has caused some farmers significant economic stress. MPI is focused on working with the industry through this difficult time. Several such initiatives include a selected breeding programme supported by the Sustainable Farming Fund to assist the industry to recover.

13. The oyster farming industry is based on the on-growing of naturally settled and hatchery-reared oyster spat on farm structures (ie, stocks and racks). However, as a direct consequence of the effects of the herpes virus, some farmers have started to stock their farms with wild oysters to compliment farmed oyster production. These farmers typically harvest oysters from areas immediately outside their farms, transfer them onto farm structures, and hold them before re-harvesting for sale¹.

14. Harvesting wild oysters for relocating onto a farm requires the farmer to hold a commercial fishing permit² (thereby becoming a 'commercial fisher') and landing the catch to a Licensed Fish Receiver (LFR). However, only a few oyster farmers currently hold commercial fishing permits because of the additional costs involved.

15. While the costs of gaining a fishing permit³ are not unreasonably high, many farmers are struggling financially and an additional cost burden will pose a problem for this industry.

16. In addition to the fishing permit fee, the marine farmers face extra costs to register any vessel involved in fishing and significant logistical and financial costs to satisfy the LFR requirements.

17. While one or more oyster farmers could themselves become an LFR to address the administrative requirement to land oysters to an LFR facility, the LFR application costs (\$2975) are likely to be prohibitive given the temporary nature of the proposed collection of wild oysters to stock marine farms.

18. Mr Mike Sabin, MP for Northland, raised the issue of the requirement for oyster farmers to become commercial fishers with the previous Minister for Primary Industries (Hon David Carter) and asked MPI to provide an alternative way to allow oyster farmers to gather wild oysters. MPI provided a briefing to the Minister (B12-232) stating that the only mechanism to assist oyster farmers is by way of special permits and that a new purpose

¹ The placement of wild oysters onto a marine farm is subject to all food and safety requirements. Any oyster farm wishing to relay or transfer oysters to a marine farm must comply with the Animal Products (regulated Control Scheme – Bivalve Molluscan Shellfish) Regulations 2006; administered under the Animal Products Act 1999.

² S 89(1) of the Act requires a person to hold an s 91 fishing permit to take all fish, aquatic life, or seaweed unless the taking falls within one of the exemptions listed in s 89(2). None of the exemptions apply to the taking of wild oysters for relaying onto a marine farm for sale.

³ The costs that would be incurred in applying to MPI for a commercial fishing permit and to register a vessel are:

Item	1 year	5 years
Fishing permit	\$114.49	\$224.89
Register vessel	\$55.20	\$110.44
Total	\$169.69	\$335.33

must be approved before permits can be issued. The then Minister directed MPI to consult with Maori and stakeholders on the proposed new special permit purpose.

19. MPI consulted in January 2013 on a new purpose to allow oyster farmers to collect wild oysters by way of special permits. MPI proposed the following Ministerial Purpose for issuing a special permit:

“To provide interim relief so that marine farmers whose businesses are affected by the oyster herpes can take wild (feral) Pacific oysters for the purpose of relay and/or transfer onto a marine farm for ongrowing and sale without the requirement to hold a commercial fishing permit and land to a licensed fish receiver, subject to food safety requirements.”

Analysis

Summary of Submissions

20. A total of 23 submissions were received on the proposal. These submissions came from a variety of iwi/hapu groups and organisations, the marine farming industry, and the commercial fishing industry. Support/opposition for the proposed special permit purpose and key issues raised in submissions are summarised in Appendix 1.

21. In general:

- The aquaculture industry, Auckland Council, and some iwi/hapu groups and organisations **support** the proposal to provide interim relief for affected oyster farmers.

(Aquaculture New Zealand, Auckland Council, NZ Oyster Industry Association, Te Ohu Kaimoana, Bay of Plenty Regional Council, Te Runanga Nui o te Aupouri, Te Runanga o Ngati Whatua, Te Runanga o Te Rarawa, The Fat Oyster Co. Ltd).

- Some iwi/hapu groups and organisations **do not support** the proposal because of concerns about risks of transferring the herpes virus to unaffected oyster beds and continued access by tangata whenua to gather oysters.

(Nga Hapu O Te Uru Forum, Nga Hapu o Maniapoto, Ngati Kuri Trust Board Inc., Nga Tai o Te Uru, a Taonga o Ngai Takoto, Nga Hapu o te uru o Tainui Customary Fisheries Forum, Pukaki Maori Marae Committee/Te Akitai Waiohau Iwi Authority, Te Ruawhanga o Kawhia Moana, Nga Tirairaka o Ngati Hine, Waikato-Tainui Te Kauhanganui Inc.).

- Two fishing industry organisations support the proposal in principle to assist the oyster farming industry, but **do not support** using special permits to provide access.

(NZ Rock Lobster Industry Council, Paua Industry Council Ltd)

Analysis of main issues

Need to provide the oyster farming industry with interim relief

Issues raised:

22. Submissions from the aquaculture industry, Auckland Council, and some iwi/hapu groups and organisations highlight the current plight of the northern oyster farming industry in light of the effects of the oyster herpes virus. Aquaculture New Zealand states the virus has significantly affected the industry, and employment and sales revenue is markedly down since 2009. The loss in oyster production poses a high risk that some farmers may abandon their farms and costs of cleaning up these farms may fall onto councils.

23. The industry and Auckland Council note that while there are several initiatives underway to breed more resilient oysters and investigate farming methods to decrease the effects of the virus, it is likely that the benefits from this work will not accrue for a few years. As such, they highlight that it is necessary for government to implement measures to immediately improve returns from farms and enable farmers to maintain their businesses.

MPI response:

24. MPI acknowledges the virus is having a significant impact on the economic viability and wellbeing of the northern oyster farming industry. This impact includes negative downstream effects on local communities through loss of employment opportunities and associated financial hardships. For example, Sanford Limited's oyster processing plant in Kaeo was closed in December 2011 and this has resulted in the reported loss of 15 permanent and 51 seasonal jobs. Many farms are located in remote, rural areas where alternative employment is problematic.

25. MPI agrees that appropriate measures are necessary to assist farmers through this difficult time while the industry recovers. MPI believes that issuing special permits to oysters farmers whose businesses are affected by the virus is one such measure. These permits will be valid for a period of three years and will provide interim relief while progress is being made on other longer-term measures to mitigate the effects of the virus.

26. MPI anticipates the number of oyster farmers wishing to apply for the proposed special permits will be relatively small, as they will still be required to hold a relay permit under the food safety requirements⁴.

27. MPI accepts that granting special permits must ensure that any harvest does not unreasonably affect other fishers, particularly customary fishers, or increase the risk of spreading the virus into non-affected areas. These matters are discussed below.

⁴ A farmer must hold a 'relay permit' if wild oysters are taken from a classified growing area, which is either restricted or conditionally restricted (generally unsafe for direct human consumption), and relayed onto a marine farm. No such permit is required if oysters are taken from a classified growing area, which is either approved or conditionally approved. This is because there are no concerns about contamination when oysters are transferred from one approved growing area to another approved growing area. These requirements do not apply if wild oyster spat⁴ is taken, as they have to be ongrown for at least 6 months to reach market size.

Sustainability of the oyster resource and continued access for customary harvest

Issues raised:

28. Many submitters highlight that oysters are an important food source and are regularly gathered by customary fishers. They express great concern that the proposed taking of wild oysters under special permits will lead to depletion of important localised beds. Several note that oysters are a taonga species and, as such, there should be no commercial harvest or all access should be managed by the local kaitiaki. In addition, there are several areas in Northland that are managed as oyster reserves. Some submitters state that the proposed special permits will enable farmers to take unlimited oysters from areas important to Maori, and this may cause problems for customary fishers to gather oysters sufficient for their needs

MPI response:

29. Pacific oysters are an introduced shellfish species and are widespread in New Zealand. This species is both commercially fished and farmed, and in some areas, they have become a nuisance due to their very high numbers (eg, fouling, sharp shells).

30. Pacific oysters are managed outside the Quota Management System (QMS), and no quota, Annual Catch Entitlement (ACE), or commercial catch limit applies. As such, oysters are managed as an open access fishery and commercial fishers can take unlimited quantities of oysters (including from localised areas).

31. There are no sustainability concerns for this oyster species at this time. Nevertheless, the gathering of oysters from small, defined areas close to a marine farm (as a proposed condition of the special permit – see below) may lead to problems of localised depletion and harvest by customary fishers.

32. MPI considers the concerns about sustainability and access to oysters by customary fishers can be managed through appropriate special permit conditions. MPI will consult with iwi on each special permit application and this will enable them to identify important oyster gathering areas. MPI can prohibit or restrict harvest and implement an appropriate monitoring regime within proposed special permit areas to address iwi concerns. MPI is also able to reconsider the conditions of a special permit or revoke the permit if concerns about local depletion or access are realised.

33. MPI will ensure that a condition of the proposed special permits will prohibit the harvest of oysters from any mātaimai or oyster reserve without written permission from the kaitiaki.

34. Given the open access nature of the commercial oyster fishery, MPI has little control on where and how commercial fishers gather wild oysters and the quantities taken. The use of special permits with appropriate conditions provides MPI with greater control to manage the effects of fishing on local oyster populations and other fishery users.

Transfer of the oyster virus from affected to unaffected areas

Issues raised:

35. Submitters raise concerns about the potential for oyster farmers to unintentionally transfer the virus to oyster beds where oyster farmers have not experienced the level of mortalities observed in the northern oyster farms.

MPI response:

36. MPI contends that mitigating the potential transfer of the virus to unaffected areas is paramount when considering the proposed special permit purpose. Special permits will not allow movements of wild oysters over large distances, which could transfer the virus and other pathogens further than through natural movements. MPI has limited control on existing commercial oyster fishers to mitigate such risk. Special permits provide MPI with greater ability to control oyster movement, and a mechanism to address the transfer risk.

37. MPI proposes that special permits impose conditions requiring oyster farmers to gather oysters only within the vicinity of their farm (ie, within the same bay or inlet). Auckland Council supports this approach. The nature of the proposed conditions will be carefully determined when considering each special permit application through consultation with iwi and relevant experts within MPI.

38. In addition, MPI will monitor the conditions of special permits relating to movements of wild oysters, as part of the ongoing surveillance programme when issuing an oyster farmer with a relay permit to move wild oysters to a marine farm.

39. MPI will also liaise with relevant iwi/hapu as a way to test that conditions of permits are being met.

Using special permits rather than the commercial fishing permit regime

Issues raised:

40. The New Zealand Rock Lobster and Paua Industry Councils oppose the use of special permits to provide oyster farmers with access to wild oysters. While sympathetic to the plight of the oyster farming industry, they contend that the commercial fishing permit regime provides an existing mechanism to enable farmers to take oysters and that the costs of becoming commercial fishers are not prohibitive. They highlight that several oyster farmers already hold fishing permits to undertake this activity.

41. Both councils believe that the Act already provides a credible mechanism to enable MPI's Chief Executive to waive the commercial fishing permit fee (ie, r 83 of the Fisheries (Commercial Fishing) Regulations 2001) and to exempt the farmer from the requirement to land oysters to an LFR (ie, s 192A(2) of the Fisheries Act 1996; the 'Act'). They note that this approach achieves MPI's objectives to help the industry at this time, while upholding the commercial fisheries framework.

MPI response:

42. MPI disagrees with the councils' views. While r 83 of the Fisheries (Commercial Fishing) Regulations 2001 enables the Chief Executive to waive the commercial permit fee (thereby providing a permit at no cost to the farmer), the oyster farmer as a commercial fisher would still be required to land oysters to an LFR and use a registered vessel if involved in fishing. These requirements would still impose additional costs on oyster farmers, many of whom are struggling financially due to impacts of the virus on their business. While councils' approach does provide an access mechanism, it does not address concerns about additional costs.

43. Further, MPI contends that s 192A(2) of the Act does not allow a marine farmer to take oysters from the wild or exempt them from the requirement to land to a LFR. Only a special permit can provide these exemptions.

44. MPI highlights that creating a special permit to exempt oyster farmers from holding a commercial fishing permit may lead to similar requests from industry. The effect of the oyster virus on the industry is an unusual and special circumstance, and enabling cost effective access to wild oysters will help farmers through this difficult time. The proposed special permits provide a short-term practical solution (up to three years) to enable farmers to collect wild oysters within or adjacent to their farms without the need to become commercial fishers and to land oysters to a LFR.

Use of single or multiple special permits

Issues raised:

45. Several submissions note that the proposal was unclear on whether MPI intends to issue a single overarching special permit for the wider industry or a special permit to individual farmers.

MPI response:

46. MPI intends to issue special permits to individual oyster farmers upon application. These permits will be for a maximum of three years. The permit will allow the farmer to stock their farm with wild oysters and not authorise them to collect oysters on behalf of other farmers. This restriction will make it easier for MPI to enforce the special permit conditions.

Statutory considerations

Special permit legislation

47. Special permits offer a time-bound mechanism for carrying out fishing activities that are not otherwise authorised by the Act. Section 97 of the Act provides the purpose and framework for issuing special permits to take fish, aquatic life or seaweeds.

48. Special permits are issued by the Director-General of MPI for a specified time and may be revoked at any time by notice in writing to the holder of the special permit. They are issued subject to such terms and conditions as the Director-General may set out in the permit.

49. The purposes prescribed under s 97(1)(a) and (b) of the Act for issuing special permits are for education, investigative research, management or eradication of unwanted aquatic life, carrying out gear trials, or to allow any disabled person who, because of the person's disability, would otherwise be unable to fish by methods permitted in the Act.

50. When an application for a special permit does not fit into one of the purposes specified under s 97(1)(a) or (b), you may approve a new purpose under s 97(1)(c) of the Act. Before approving a new purpose, you must consult with "such persons and organisations as you consider are representative of those classes of persons having an interest in the granting of a special permit for such a purpose, including Maori, environmental, commercial, and recreational interests." Following consultation, you may elect to approve or decline a proposed new purpose.

51. MPI proposes that you approve a new purpose to issue special permits to marine farmers to take wild oysters for aquaculture purposes without the need to become a commercial fisher and land oysters to a LFR. The proposed purpose will be limited to three

years to provide interim relief while longer-term measures are progressed to assist the industry to recover.

52. MPI proposes to consider all special permits applications under the new purpose against criteria outlined in Appendix 2.

Other Statutory Considerations

53. Section 97(3) of the Act requires the Director General to take into account the purpose of the Act and the environmental and information principles when considering a special permit application other than for the purpose of the management or eradication of unwanted aquatic life.

54. Section 5(b) requires the Act to be interpreted consistently with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Iwi/hapu have raised concerns that the proposal does not meet Treaty of Waitangi obligations by undermining customary rights of tangata whenua.

55. MPI will consult with iwi on each special permit application and this will provide them with an opportunity to identify specific concerns of the proposed activity, including identifying important areas for customary harvest. Specific conditions can be included on the special permit to address these concerns and protect important oyster gathering areas.

56. Section 8 describes the purpose of the Act as being to provide for the utilisation of fisheries resources while ensuring sustainability. The proposal seeks to achieve the purpose of the Act by providing the oyster farming industry with interim access to wild oysters. Through appropriate special permit conditions, MPI considers activities authorised under the new purpose are unlikely to have any undue effect on the sustainability of the oyster fishery and on other users.

57. Section 9 of the Act requires you to take into account that associated or dependent species (those that are not harvested) be maintained at or above a level that ensures their long-term viability and that the biological diversity of the aquatic environment should be maintained. Section 9 also requires you to take into account the principle that habitat of particular importance for fisheries management should be protected. MPI considers the new purpose is consistent with the environmental principles of the Act, as the activities are likely to be small-scale and localised, and subject to appropriate special permit conditions.

58. Section 10 of the Act sets out information principles, which requires that decisions be based on the best available information, taking into account any uncertainty in that information, and applying caution where information is uncertain, unreliable, or inadequate. In accordance with s 10, the absence of information should not be used as a reason to postpone, or fail to take, any measure to achieve the purpose of the Act. MPI considers that the analysis presented in this paper is based on best available information.

Conclusion

59. Based on submissions received and the above statutory considerations, MPI contends that you should approve the proposed special permit purpose to allow marine farmers to take wild oysters to stock their marine farms. This proposal will provide industry with interim relief while longer-term measures are progressed to enable the industry to recover.

60. MPI acknowledges the concerns raised in submissions, particularly from iwi about continued access to oysters for customary harvest and the risk of transferring affected oysters into unaffected areas. These are legitimate concerns when considering whether to approve the proposed new special permit purpose. However, MPI can address these matters through appropriate special permit conditions.

61. MPI highlights it will consult with relevant iwi as part of processing each special permit application, and this will provide them with an opportunity to identify specific areas where fishing should or should not occur to address their concerns.

Special permit fee

62. The costs to process a special permit application are directly recovered from the applicant. The current hourly charge of \$133.88 for special permit applications is stipulated in Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001.

63. The Chief Executive of MPI may waive or remit, in whole or in part, a special permit fee if it is in the public interest. Given the financial hardship facing the oyster industry at this time, MPI proposes to waive the special permit processing fee. Helping oyster farmers is in the public interest.

Next steps

64. Following your decision on whether to approve the proposed special permit purpose, MPI will contact submitters to inform them of your decision. If you agree to approve the new purpose, MPI will ensure that the following key messages are conveyed to submitters:

- The proposed special permits will provide interim relief to oyster farmers whose businesses are affected by the herpes virus to assist them through this difficult time.
- Special permits will be valid for three years to provide a cost effective and manageable mechanism while longer-term measures are being developed to address the effects of the virus.
- Special permits will only allow small distance movements of wild oysters onto marine farms and marine farmers will still need to comply with all food safety requirements.
- Issues raised in submissions about local depletion, biosecurity, and compliance risks can be effectively managed using special permit conditions.
- MPI will inform and consult with relevant iwi on individual special permit applications and this will provide them with another opportunity to raise specific concerns about the proposed activity including identifying important oyster/kaimoana gathering areas.

Appendix 1.

Summary of support/opposition for the proposed special permit purpose and key issues raised

Submitter	Support	Oppose	Neutral		Will provide interim relief and increase profitability and retain employment	Concerns about sustainability of wild oysters	Concerns over access to oysters for customary harvest	Concerns over biosecurity - transfer of virus from affected to unaffected areas	Support 3-year timeframe	Consultation with iwi must occur	Create a precedent for other commercial fisheries	Support to use existing commercial fishing mechanisms
Aquaculture NZ	•				•				•			
Auckland Council	•				•		•	•				
Ben Warren – oyster farmer	•				•							
The Fat Oyster Co. Ltd	•				•							
Te Ohu Kaimoana	•				•	•	•	•		•		
Bay of Plenty Regional Council	•				•				•			
Te Runanga Nui o te Aupouri	•				•	•	•	•	•	•		
Te Runanga o Ngati Whatua	•				•	•			•			
Te Runanga o Te Rarawa	•				•	•		•				
NZ Oyster Industry Association	•				•							
Nga Hapu O Te Uru Forum		•					•	•				
Nga Hapu o Maniapoto		•					•					
Ngati Kuri Trust Board Inc.		•				•				•		
Nga Tai o Te Uru		•								•	•	
Nga Taonga o Ngai Takoto		•				•		•				
NZ Rock Lobster Industry Council/Paua Industry Council Ltd		•									•	•
Nga Hapu o te uru o Tainui Customary Fisheries Forum		•				•	•	•				
Pukaki Maori Marae Committee/Te Akitai Waiohau Iwi Authority		•						•				
Te Ruawhango o Kawhia Moana		•				•	•	•				
Nga Tirairaka o Ngati Hine		•								•		
Waikato-Tainui Te Kauhanganui Inc.		•				•	•	•		•		
Coromandel Oyster Company			•									•
Ngati Tamaoho Trust			•				•	•				

Appendix 2.

Criteria and conditions of proposed Ministerial purpose for special permits

Criteria

1. MPI proposes that special permits under the new purpose would be considered against the following criteria. The activity:

- a. would have demonstrable economic benefit to an affected oyster farmer whose business is affected by the herpes virus
 - The applicant must demonstrate that the oyster herpes virus has adversely affected their oyster farming business.
- b. would not unreasonably increase the risks of transferring the virus to unaffected oyster beds
 - The collections of all wild oysters will be restricted to oyster beds within the immediate vicinity of the marine farms. Large-scale movements will be prohibited.
- c. would not have an unreasonable effect on other fishery users
 - The applicant advises the location of the proposed harvest of wild oysters to enable effective consultation with relevant iwi/hapu.

2. The criteria aim to ensure that only oyster farmers whose businesses are affected by the oyster herpes virus are eligible to collect wild oysters under the proposed special permit, and that the risk of transferring the virus to non-affected oyster beds is minimised. The criteria will also enable MPI to effectively consult with iwi on the proposed location of wild oysters to ensure that harvesting is not permitted within important customary harvest areas.

3. In addition to the above criteria, each application must be assessed against the statutory considerations set out in this document.

4. This proposed new special permit purpose will be applicable for three (3) years while the industry recovers from the virus. MPI expects farmers will operate under normal commercial fishing requirements once the effects of the virus have been minimised. The proposed duration of the special permits reflects the need to provide industry with interim relief in light of the current financial hardship facing the industry.

Proposed Conditions

5. Special permits typically specify the conditions under which fish or shellfish may be taken and disposed. This includes the reporting and notification requirements, period of validity, area, and methods. Such conditions may be changed or revoked at any time.

6. MPI considers that each special permit approved under the new purpose will specify reporting and notification conditions to mitigate risks of non-compliance and the sustainability of the fish stocks.

7. Proposed conditions on special permits will include:
 - a. The permit will specify the location where wild oysters can be collected and to where they can be moved (ie, specify receiving farm).
 - b. The permit holder will not be allowed to take oysters within mātaitai or oyster reserves without written permission from kaitiaki.
 - c. The permit holder will be exempt from the requirement to use a vessel registered under the Fisheries Act 1996 when taking oysters. Any vessel used, however, must be registered in accordance with the Animal Products Act 1999.
 - d. The permit holder will be required to comply with all food safety requirements under the Animal Products (Regulated Control Scheme – Bivalve Molluscan Shellfish) Regulations 2006; administered under the Animal Products Act 1999. This will require a farmer to obtain and hold a ‘relay’ permit (if necessary) issued by MPI before gathering any oyster. MPI will require farmers to demonstrate that they hold the relay permit before a special permit can be issued. No food safety requirements apply if oysters collected are less than 37 mm in size (ie, oyster spat).
 - e. The permit holder must provide a specialised monthly report that outlines the quantity of wild oysters collected under the special permit. MPI can use this information to assess the effectiveness of the new purpose special permit.
 - f. The permit holder will be exempt from having to comply with the provisions of s 192A(1) of the Act and enable the marine farmer to “acquire” and “possess” oyster taken under the special permit.
 - g. The permit holder must inform a local MPI office before collecting any wild oysters. This notification enables MPI to manage any compliance risks identified during the application review process.
8. Special permits are issued for a specified period and may be revoked at any time by the Director-General (for example, if the applicant is not achieving the permit objectives or complying with any conditions).
9. MPI notes that special permits create no ongoing rights or expectations.