

Disqualifying an aquaculture permit holder policy

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Category:	Operations and Industry	Review date:	29 February 2026

Policy statement:

This policy defines when NSW Department of Primary Industries and Regional Development (DPIRD) may disqualify a person or corporation from holding an aquaculture permit following the cancellation of their aquaculture permit, in line with sections 160 and 161 of the *Fisheries Management Act 1994* (the Act).

Scope:

This policy applies to any person or corporation who has held an aquaculture permit within NSW and that permit has been cancelled in line with section 160 of the Act. In line with section 161 of the Act, DPIRD may:

- Disqualify a person who is not a corporation (s 161(1)).
- Disqualify a corporation and any director or other person concerned in the management of that corporation (s 161(2)).

DPIRD may disqualify a person or corporation for a specified period or until an outstanding issue has been resolved, or it may permanently disqualify a person or corporation (s 161(3)).

Requirements:

1. Following the cancellation of an aquaculture permit under section 160 of the Act, the department will determine if the person or corporation who held the permit should be disqualified from holding an aquaculture permit in NSW, either for a specified period or permanently.
2. A decision to disqualify a person or corporation will be made at the discretion of the department. In making this decision, the department will consider all circumstances of the particular case, including:
 - a. the reason for permit cancellation, the seriousness and frequency of the offence.
 - b. the nature, seriousness and frequency of any complaints made against the permit holder and their reputation within the industry and community.
 - c. the likelihood of the permit holder contravening the conditions of a permit, be the subject of further complaints or commit further offences.
 - d. the administrative, production and compliance history of the permit holder.
 - e. any mitigating factors affecting the person or corporation (for example, financial hardship or poor health).

3. Before the department can disqualify a person or corporation from holding an aquaculture permit, it is required to give the person or corporation an opportunity to be heard on the matter or to make written submissions on the matter in line with section 161(6) of the Act. This requirement will be met via a show cause notice that will provide the permit holder with a minimum of 30 days to respond.
4. Any responses to the show cause notice will be considered prior to the disqualification of the person or corporation. If a person makes a submission, the department will evaluate that submission on its own merit, based on all available evidence, before making a decision on whether this policy will be applied. The department must consider all submissions to satisfy the requirements of procedural fairness.
5. If, after the show cause period, the department decides to disqualify a person or corporation, the disqualification will be applied to the following entities:
 - a. Where the permit was held by an individual, the individual will be disqualified.
 - b. Where the permit was held by a partnership, all partners will be disqualified.
 - c. Where the permit was held by a corporation, the corporation and all of its directors will be disqualified.
6. A person or corporation may be disqualified until a specified contingency has happened, if the aquaculture permit was cancelled due to an outstanding issue. In such instances, the department may revoke the disqualification on its own initiative under section 161(4) of the Act if the outstanding issue is resolved. Examples may include:
 - a. Outstanding debt related to permit fees - disqualification may be revoked if the outstanding debt is paid in full.
 - b. Outstanding production return – disqualification may be revoked if the production return is submitted.
7. A person or corporation may be disqualified either for a specified period or permanently. The decision on how long to disqualify a former permit holder will be made at the discretion of the department. The department will consider all circumstances of the particular case, including those listed in clause 2 of this policy.
8. For any temporary or permanent disqualification, DPIRD may revoke the disqualification at any time while the disqualification is in place, if the person or corporation concerned applies in writing to have the disqualification lifted under section 161(4) of the Act. This decision will be considered on a case-by-case basis and made at the discretion of the department.
9. An application for a new aquaculture permit involving a disqualified person or corporation may be refused in line with section 146(2)(b) and (c) of the Act.
10. An application for a new aquaculture permit involving a disqualified person or corporation may be refused even if the application is submitted in a different name. For example, an application submitted by a company when one of the directors is disqualified, or an application submitted by a partnership when one of the partners is disqualified.
11. A disqualified person or corporation may apply to the NSW Civil and Administrative Tribunal (NCAT) for an administrative review under the *Administrative Decisions Review Act 1997*. The department will advise the disqualified person or corporation of this option in the disqualification notice.

Roles and responsibilities:

- Program Leader Aquaculture – has the delegation to disqualify a person or corporation and to revoke a declaration to disqualify.
- Senior Fisheries Manager Aquaculture – administers the database in which the permit holder disqualification data are held.

Legislation

- *Fisheries Management Act 1994*
 - Fisheries Management (Aquaculture) Regulation 2024
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Delegations:

- Fisheries Management Instrument of Delegation (Minister) 2024
 - Fisheries Management Instrument of Delegation (Secretary) (No 2) 2024
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Definitions:

- **Permit fees:** in line with the Fisheries Management (Aquaculture) Regulation 2017 (the Regulation), an aquaculture permit holder is required to pay an annual permit contribution fee (cl 14) and a research contribution fee (cl 16). Failure to pay these annual contributions is a breach of permit conditions.
 - **Production return:** each financial year, all permit holders must provide NSW DPI with their annual production data. This information is requested under s 153 of the Act. It is a condition of every permit that the holder complies with a s 153 notice.
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Related policies:

- Aquaculture account billing and debt recovery policy
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Revision history:

Version	Revised date	Details
1.1	20 September 2024	<ul style="list-style-type: none">• Updated references to the 2024 Regulation.• Removed clause that stated a permit holder will be disqualified after 3 permit cancellations (legal advice).• Removed clause that stated a permanently disqualified person cannot request for the disqualification to be lifted.• Removed clauses that defined when a person will be temporarily disqualified vs when a person will be permanently disqualified.• Removed statement that said a disqualified person cannot apply for an aquaculture permit.• Added statement that the department can consider the permit holder's history when deciding whether to disqualify.