



20 May 2020

AQUACULTURE DECISION REPORT — RED SKY TRUST, COASTAL PERMIT U190336, ONAUKU BAY, EAST BAY

PURPOSE

1. This report sets out my aquaculture decision (as the relevant decision maker¹) for an aquaculture decision request made under section 114(4)(c)(ii) of the *Resource Management Act 1991* (RMA). The aquaculture decision request is described below. My aquaculture decision is made under section 186E of the *Fisheries Act 1996* (Fisheries Act).

SUMMARY

2. I am satisfied the aquaculture activities proposed within the area of coastal permit U190336 will not have an undue adverse effect on the following fishing sectors:

- recreational - for the reasons set out in this report and summarised in paragraph 15;
- customary - for the reasons set out in this report and summarised in paragraph 15;
- commercial - for the reasons set out in this report and summarised in paragraph 40.

AQUACULTURE DECISION REQUEST DETAILS

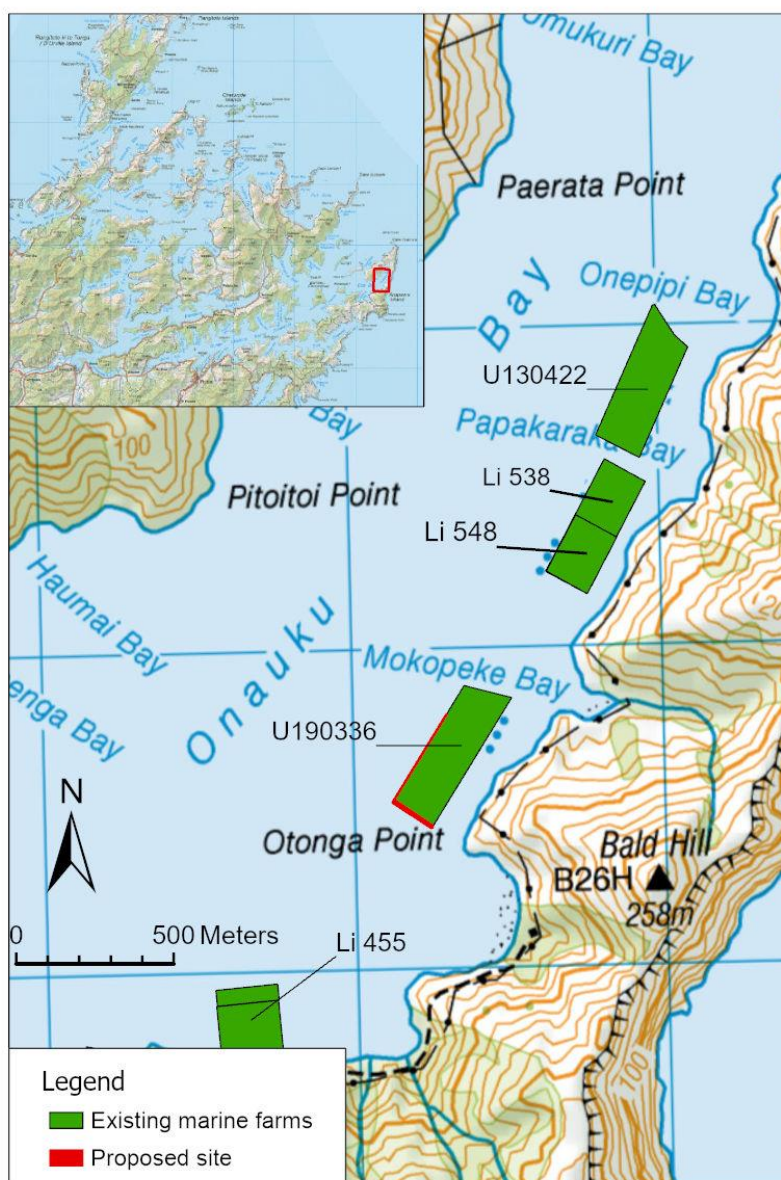
Regional Council:	Marlborough District Council (MDC)
Date of Request:	6 December 2019
Coastal Permit Applicant:	Lynette Raywin Anne Oldham and Kevin Charles David Oldham as trustees of the Red Sky Trust
Location of marine farm site:	Onauku Bay, East Bay
Size of farm:	Renewing and repositioning of 6.87 hectare (ha) marine farm licence 462 (Li 462) and coastal permit U110210 to occupy 0.15 ha of new space.
Species listed on consent:	Green-lipped mussel <i>Perna canaliculus</i> , blue mussel <i>Mytilus galloprovincialis</i> , scallop <i>Pecten novaezelandiae</i> , dredge oyster <i>Ostrea chilensis</i> and algae (<i>Macrocystis pyrifera</i> , <i>Ecklonia radiata</i> , <i>Graciliara</i> spp., <i>Pterocladia lucida</i>).
Farm structures:	Standard marine farm longlines and anchors.

Location and structures

3. Coastal permit U190336 renews and slightly repositions Li 462 and U110210 in the southeast of Onauku Bay. U190336 extends the southern and western boundaries, covering 0.15 ha (1 500 squares metres) of new space. The southern extension brings the existing anchor

¹ Acting under authority delegated to me by the Director-General of the Ministry for Primary Industries (MPI) in accordance with section 41 of the *State Sector Act 1988*.

warps wholly within the new farm boundaries. Site and structures maps can be found in Appendix A.



Map 12: Location of the proposed site (area authorised by coastal permit U190336) at Onauku Bay, East Bay.

Environment

4. The area of the farm has been surveyed many times over the years. Therefore no further survey was undertaken for this renewal application. A survey of the marine farm site in 2018

² Disclaimer: Maps 1 and 2 and all accompanying information accompanying (the “Maps”) is intended to be used as a guide only, with other data sources and methods, and should only be used for the purpose for which it was developed. The information shown in the Maps is based on a summary of data obtained from various sources. While all reasonable measures have been taken to ensure the accuracy of the Maps, MPI: (a) gives no warranty or representation in relation to the accuracy, completeness, reliability or fitness for purpose of the Maps; and (b) accepts no liability whatsoever in relation to any loss, damage or other costs relating to any person’s use of the Maps, including but not limited to any compilations, derivative works or modifications of the Maps. Crown copyright ©. The maps are subject to Crown copyright administered by Ministry for Primary Industries (MPI). Data Attribution:

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found the consent area was dominated by mud. This type of silt and clay substratum is widespread in sheltered areas of the Marlborough Sounds (Davidson, 2018).

5. The proposed extension of the consented space is considered positive for the benthic environment. Disturbance to the seabed and other (non-benthic) marine life will be avoided, which would otherwise have required if the existing screw anchors had to be removed and new ones put in place.

Input from stakeholders

6. Fisheries New Zealand did not seek input from stakeholders on this application as it involves only a very minor change in location of an existing farm and is within an area dominated by marine farming.

STATUTORY CONTEXT

7. Section 186E(1) of the Fisheries Act requires me to, within 20 working days after receiving a request for an aquaculture decision from a regional council, make a determination or reservation (or one or more of them in relation to different parts of the area to which the request relates).

8. A ‘determination’ is a decision that I am satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on customary, recreational, or commercial fishing³. A ‘reservation’ is a decision that I am not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing.

9. If I make a reservation, I am required to specify whether the reservation relates to customary, recreational or commercial fishing or a combination of them. If the reservation relates to commercial fishing, I must specify the stocks and area concerned—section 186H(4).

10. Section 186GB(1) of the Fisheries Act specifies the only matters I must have regard to when making an aquaculture decision. These matters are as follows:

- the location of the area that the coastal permit relates to in relation to areas in which fishing is carried out;
- the likely effect of the aquaculture activities in the area that the coastal permit relates to on fishing of any fishery, including the proportion of any fishery likely to become affected;
- the degree to which the aquaculture activities in the area that the coastal permit relates to will lead to the exclusion of fishing;
- the extent to which fishing for a species in the area that the coastal permit relates to can be carried out in other areas;

³ Section 186C of the Fisheries Act defines “adverse effect,” in relation to fishing, as restricting access for fishing or displacing fishing. An “undue adverse effect” is not defined. However, the ordinary meaning of “undue” is an effect that is unjustified or unwarranted in the circumstances. For the purpose of my decision under section 186E, an undue adverse effect will mean the significance of the effect on restricting access for fishing, displacing fishing or increasing the cost of fishing is unjustified or unwarranted in the circumstances.

- the extent to which the occupation of the coastal marine area authorised by the coastal permit will increase the cost of fishing; and
- the cumulative effect on fishing of any authorised aquaculture activities, including any structures authorised before the introduction of any relevant stock to the quota management system.

11. For the purpose of my assessment, customary fishing differs from recreational fishing if it is undertaken outside of the recreational limits provided in the *Fisheries (Amateur Fishing) Regulations 2013* (Amateur Regulations) and is instead authorised by a customary authorisation.

12. Appendix B gives further information on statutory context.

ASSESSMENT

13. The following is an assessment, within the statutory context, of the effects of the proposed aquaculture activities on recreational, customary and commercial fishing. It is based on all the relevant information available to me.

14. This assessment relates to the 0.15 ha of new consented space authorised by coastal permit U190336 (the proposed site) as if it had not been previously occupied.

Recreational and customary fishing

15. I am satisfied the aquaculture activities that may operate within the proposed site will not have an undue adverse effect on recreational or customary fishing because:

- only a small amount of recreational and customary fishing is likely to occur at the proposed site;
- anchored rod/line fishing could still occur when the proposed structures are installed;
- there are other recreational and customary fishing areas available nearby;
- occupation of the proposed site will result in a minimal, if any, increase in the cost of recreational or customary fishing;
- the likely effect of occupation of the proposed site on recreational and customary fishing is negligible; and
- this small effect added to existing effects of approved aquaculture space will not cause the cumulative effect on recreational or customary fishing to become undue.

16. The above conclusions were reached following the more detailed assessment below.

Location of the coastal permit area relative to fishing areas

17. The location of the coastal permit area relative to fishing areas for recreational and customary sectors are considered separately below.

Recreational fishing

18. I consider the area of the proposed site is located where some recreational fishing is likely to occur. The locality of the proposed site is not particularly important for recreational

fishing, but a little does occur around this area. Methods used include stationary rod/line fishing from a boat. Species which could be caught include kahawai, gurnard and tarakihi.⁴

19. Information on recreational fishing used in this assessment comes from:

- two national interview surveys in the 2011-12 and 2017-18 fishing years (Wynne-Jones *et al.*, 2014, 2019);
- three aerial over-flight surveys coupled with boat ramp surveys covering Fisheries Management Area (FMA) 7 over:
 - 12 months in 2005-06 (Davey *et al.*, 2008);
 - two days in 2014-15 (Hartill, *et al.*, 2015); and
 - 12 months in 2015-16 (Hartill, *et al.*, 2017);
- Amateur Charter Vessel (ACV) returns. Charter fishing must be reported to MPI and reports include location of fishing and catches.

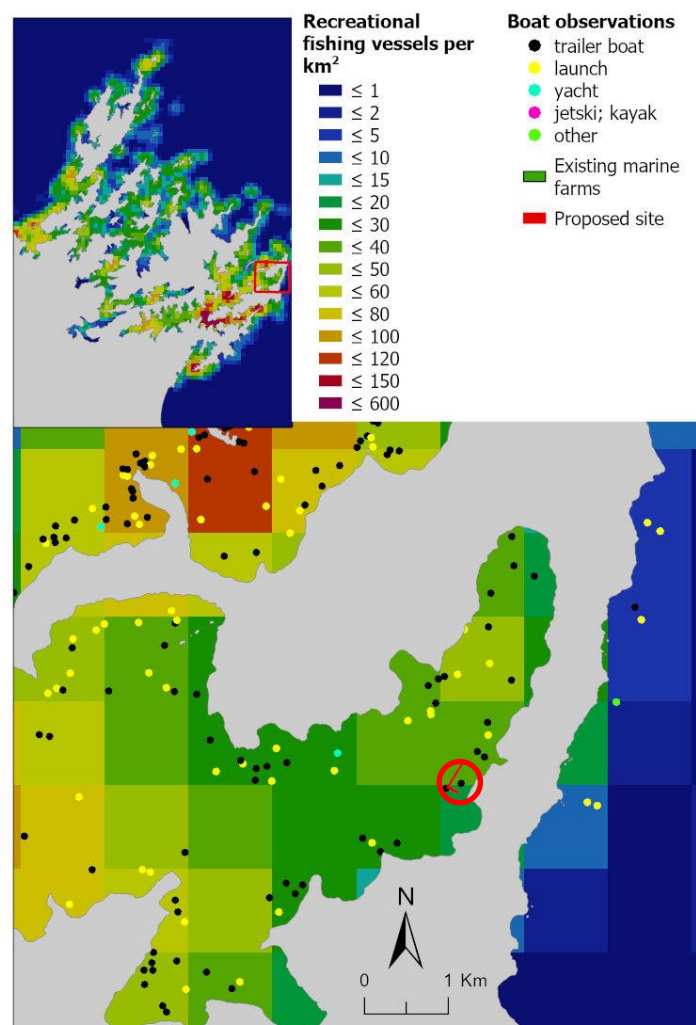
20. Aerial over-flight surveys revealed that rod and hand line fishing from private boats targeting blue cod is the most popular type of fishing in the Outer Queen Charlotte Sound (the survey area encompassing East Bay in this survey), as well as scallops (before the fishery closure) and rock lobster (Davey *et al.*, 2008).

21. Averaged over the two national interview panel surveys in Queen Charlotte Sound (the survey area which includes East Bay in these surveys), those fishing within the Sound caught mostly blue cod (50% of fishing trips), gurnard (11%), scallops (9%), and tarakihi (8%). Other species included sea perch, kahawai, snapper and pāketi (spotty) (Wynne-Jones *et al.*, 2014, 2019).⁵ Scallops appear in these results, since they were popular in East Bay before the current temporary prohibition on scallop take in this area. However, even their historic take was still a distant second place to blue cod take.

22. Aerial surveys of fishing boats show a large number of recreational fishing vessels fish in Queen Charlotte Sound, Croisilles Harbour and some areas in the outer Pelorus Sound. As shown in Map 2, fishing intensity is relatively low in Onauku Bay where the proposed site is located.

⁴ Recreational fishers are not required to report catch or fishing locations. MPI is therefore unable to estimate an average annual recreational catch or proportion of recreational catch likely to be affected by the proposed aquaculture activities. Rather, MPI can only assess the effect of the proposed aquaculture activities on recreational fishing based on qualitative information.

⁵ The national survey is designed to give statistically robust estimates at the scale of Fisheries Management Areas (FMAs), not smaller areas. The survey has been used to give a rough characterisation of recreational fishing patterns within a single survey strata covering Queen Charlotte Sound.



Map 2. Estimated annual intensity of recreational fishing from boats in 2015-16 and actual boat observations from all aerial surveys in the Marlborough Sounds (Davey *et al.*, 2008, Hartill *et al.*, 2017). The location of the proposed site in Onauku Bay, East Bay is circled in red.

23. ACV fishing must be reported to MPI and include location of fishing and amount of catch. In the eight years from October 2010 to September 2018, 24 ACV reports were received for East Bay (over an area of ~ 20 km², giving a density of 1.2 / km²). The main species caught were blue cod and tarakihi, by hand line at anchor or drifting, and scallops by diving. By comparison, the outer Queen Charlotte Sound received 990 ACV reports (area ~120 km², density 8.3 / km²). On this basis, East Bay is not very important for amateur charter fishing.

24. Table 1 summarises my assessment of the main methods used and species likely to be caught by recreational fishers at the proposed site based on recreational fishing surveys, the applicant's biological surveys (Davidson, 2018 and others), ACV data and anecdotal sources.

Table 1: Recreational fishing methods used and species likely to be caught near and around the area of coastal permit U190336, based on the available information.

	ACV data for East Bay	Recreational fishing surveys Queen Charlotte Sound	Other information	My assessment
Methods used	Hand line at anchor / drifting and diving	<p>Rod/line on anchor and hand gathering by diving are the main methods used, with some spearfishing and dredging.</p> <p>Marlborough Sounds is a high use recreational fishing area. East Bay has moderate use in places, but not in the close vicinity of the proposed site.</p>	<p>Dredging and diving may occur in the general locality and particularly inshore of the proposed site for scallops.</p> <p>Set netting is possible but usually occurs in shallower bays and estuaries.</p>	<p>Stationary rod/line methods may be used at the site.</p> <p>Mobile rod/line and long lining is possible.</p> <p>Set netting is prohibited.</p> <p>Beach seining is not a suitable method at the proposed site, because the water is too deep.</p> <p>It is not likely scallops would be dredged or dived for within the proposed site, given their recent declines in this area.</p>
Species caught	Species targeted & caught: Blue cod, tarakihi and scallops	<p>In Queen Charlotte Sound – blue cod (50% of fishing trips), gurnard (11%), scallops (9%), and tarakihi (8%) are the main species caught (Wynne-Jones <i>et al.</i>, 2014, 2019).</p> <p>Main species targeted in Outer Queen Charlotte Sound: blue cod, scallops (historically), rock lobster, kahawai, tarakihi, sea perch and hāpuku (Davey, <i>et al.</i> 2008).</p> <p>Species caught in Outer Queen Charlotte Sound: scallops, blue cod, mussel, sea perch, rock lobster, tarakihi and kahawai (Davey, <i>et al.</i> 2008).</p>	<p>Recreational scallop dredging and diving occurred when the season was open. However, there is currently a temporary prohibition on the take of scallops across the top of the South Island.</p>	<p>The absence of hard substrates beneath the proposed marine farm extension makes it unlikely that blue cod, rock lobster or other reef species would be caught there.</p> <p>Kahawai, gurnard and tarakihi, are likely to be the main fish species available for fishing at this site.</p>

Customary Fishing

25. I consider the proposed marine farm is located where there may be customary fishing, but it is not an important area for this activity. The main method likely to be used, if any, is stationary rod/line fishing from a boat. The main species caught would be rig.

26. Up to eight Iwi may have customary fisheries interests in the area of the proposed marine farm.⁶ There are no mātaihai reserves, temporary rāhui or taiāpure customary management areas in the vicinity of the proposed marine farm.

27. There is little quantitative data available on customary catch taken from the area of the proposed marine farm. Fishing locations for customary authorisations are usually only reported by FMA or Quota Management Area (QMA), although more specific sites are sometimes identified. Customary fishers are not required to report catch or fishing locations.

28. From January 1998 to March 2020, 234 customary fishing authorisations were reported to Fisheries New Zealand for East Bay and nearby areas of the Queen Charlotte Sound, including Bay of Many Coves and Ships Cove. These were mostly for scallops, pāua and blue cod. It is not possible to say whether any of these authorisations involved customary fishing in the area of the proposed marine farm but it is reasonable to assume they may have. The available data is therefore used as the best available information on species and methods which may also occur in the proposed farm area.

29. I have assessed likely customary fishing in the proposed site in Table 2 below, using the available information.

⁶ Ngāti Tama, Ngāti Apa, Ngāti Koata, Ngāti Kuia, Ngāti Rārua, Ngāti Toa, Rangitāne, Te Āti Awa

Table 2: Customary fishing methods likely to be used and species caught or targeted at the area of the area of coastal permit U190336, based on the available information.

	Source of information		
	Customary authorisations issued for East Bay and other nearby areas of Queen Charlotte Sound	Other information	My assessment
Methods used	N/A	<p>Recreational fishers commonly use rod/line on anchor, dredge, net fishing, and hand gathering by diving, so customary fishers may also use these methods.</p> <p>Dredging and diving may occur in the general locality and particularly inshore of the proposed site for scallops.</p> <p>Set netting is possible but usually occurs in shallower bays and estuaries.</p> <p>Longlines may be used.</p>	<p>Stationary rod/line methods may be used at the site.</p> <p>Set netting, mobile rod/line and long lining are possible.</p> <p>Beach seining is not a suitable method at the proposed site because the water is too deep.</p> <p>It is not likely scallops would be dredged or dived for within the proposed site, given their recent declines in this area.</p>
Species caught or targeted	<p>Scallops, pāua, and blue cod, are the most common species taken with customary authorisations from East Bay and the wider Queen Charlotte Sound area. Butterfish, mussels and rig are also taken.</p>	<p>Pāua are not typically found over the soft silty substrate at the proposed site.</p> <p>Scallops have severely declined across the top of the South Island in recent years.</p>	<p>The absence of hard substrates beneath the proposed marine farm extension makes it unlikely that pāua, blue cod, butterfish or other reef species would be caught there.</p> <p>Rig is likely to be the main fish species available for fishing at this site.</p>

Exclusion of fishing

30. The proposed marine farming structures are standard mussel longlines, 16.5 m apart. I consider that any recreational or customary set netting, longlining, or rod/line drift fishing occurring in the area of the proposed site may be excluded from the proposed site because of the risk of entanglement.⁷

31. However, I consider that stationary rod and line fishing could continue between the proposed structures, as anecdotal information suggests fishers commonly fish by rod/line within mussel farms. Some diving may still occur but is highly unlikely at this site.

Availability of other areas

32. I consider alternative areas around East Bay could absorb any recreational and customary fishing displaced from the proposed site because:

- the proposed site is only small and the amount of fishing that would occur there is likely to be small;
- the same species seen over the soft substrate at the proposed site could be found in most areas of East Bay, where this substrate is common. No information suggests the proposed site offers unique habitats or species mix; and
- the same methods used at the proposed site could be used elsewhere nearby; sufficient alternative areas exist, especially for stationary rod/line fishing.

33. Apart from the Long Island – Kokomohua Marine Reserve, all the waters of Queen Charlotte Sound are available for recreational and customary fishing. Many alternative areas are available for the types of fishing that could occur at the proposed site.

Increased cost of fishing

34. I consider that the aquaculture activities at the proposed site will increase the cost of recreational and customary fishing minimally, if at all.

35. I consider that any recreational or customary fishing excluded from the site could be carried out nearby with minimal additional cost, as a result of a marginal increase in fuel cost or change in method.

Likely effect on fishing

36. I consider the effect on recreational and customary fishing from the proposed aquaculture activities will be small because:

- not all recreational or customary fishing methods would be excluded from the proposed site;
- the area of the proposed site is small and is unlikely to be of particular importance to recreational or customary fishers; and

⁷ Anecdotal information from recreational fishers suggests that spaces between longlines of mussel farms in the Marlborough Sounds are too narrow for longlining, set netting and trolling without risk of entanglement. Drift fishing is also difficult between closely set mussel lines because of risk of entanglement.

- alternative areas around East Bay could absorb any recreational and customary fishing displaced from the proposed site.

Cumulative effects

37. I consider existing aquaculture in the Marlborough Sounds may have affected recreational and customary fishing. However, I consider the cumulative effects on recreational and customary fishing, including the aquaculture activities at the proposed site, will not be undue.

38. There is about 55 ha of authorised aquaculture space in East Bay, where the proposed site is located. There are also about 3 300 ha of marine farms in the wider Marlborough Sounds that make up about 33% of the 14 900 ha of aquaculture in FMA 7.

39. I consider the cumulative effects on recreational and customary fishing, including the aquaculture activities at the proposed site, will not be undue because:

- some recreational and customary fishing (eg, anchored rod/line fishing) can still occur within marine farms;
- not all existing farms are located in popular recreational and customary fishing areas; and
- the area of the proposed site is minimal with regard to all of the space available for recreational and customary fishing in East Bay and the wider Marlborough Sounds.

Commercial fishing

40. I am satisfied the aquaculture activities that may operate within the proposed site will not have an undue adverse effect on commercial fishing because:

- a negligible amount of commercial fishing is likely to occur in the area;
- a negligible amount of commercial fishing, if any, is likely to be excluded from the proposed site;
- there are alternate fishing grounds within the quota management areas for any fishing excluded from the proposed site;
- occupation of the proposed site will result in a negligible, if any, increase in the cost of commercial fishing;
- effects on commercial fishing catch will be negligible; and
- the additional adverse effect on commercial fishing is negligible and will not cause the cumulative effect on commercial fishing for any fish stock to become undue.

41. The above conclusions were reached following the more detailed assessment below.

Location of the coastal permit area relative to fishing areas

42. I consider the proposed site is located where there is likely to be minimal commercial fishing.

43. Fisheries New Zealand used CatchMapper⁸ to identify the fishing that potentially occurs in the vicinity of the proposed site. The proposed site is surrounded by other marine farms and the likelihood that any commercial fishing occurs that close to existing structures is very small, but Table 3 gives the fishing that may occur within the vicinity.

44. Commercial pot, longline, trolling, hand lining, hand gathering and diving all occur in East Bay, catching blue cod, school shark, sea cucumber, rock lobster, hāpuku, bass, and albacore. However, some of these fisheries may already have been displaced from the area of the proposed site due to the presence of surrounding marine farms and the confined nature of Onauku Bay.

45. Trawling, Danish seining and set netting are prohibited in this area.

46. No hard substrate was observed during surveys of the proposed area. Therefore fisheries for species dependent on such habitat are considered unlikely at this site. Such species would have included blue cod, butterfish, and horse mussel.

47. Most of the potentially affected commercial fisheries in Table 3 are managed as stock units over FMA7⁹ which spans the west coast and top of the South Island from Awarua Point in Fiordland to the Clarence River in Marlborough. The proposed site is very small in relation to the area of the potentially affected fisheries.

⁸ CatchMapper is a spatial database of all commercial fishing events for the eleven years from October 2007 to September 2018 (see Appendix C for more explanation).

⁹ FMAs can be seen here <https://fs.fish.govt.nz/Page.aspx?pk=45&tk=389>

Table 3: Fisheries identified as potentially occurring within the affected footprint of coastal permit U190336 and estimated relative amount of the fishstock caught within the footprint. ^{10,11}

All types of fishing detected within coastal permit U190336 footprint (and main fishstock)	% high spatial resolution	Average annual no. of overlapping fishing days	% of main fishstock caught by this method	Commercial fishing potentially affected	Likelihood of being affected
Blue cod (BCO7), cod pot	0%	156.5	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
School shark(SCH7), longline	0%	57.8	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
Sea Cucumber, Diving	0%	37.1	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
Other species, Pot (mainly rock lobster CRA1)	0%	34.7	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
Hāpuku bass (HPB7), longline	0%	18.5	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
Other species (mainly HOR7), hand gathering	0%	17.2	less than 0.01%	Yes	Is thought not to occur here but does occur somewhere in the general region.
Blue cod (BCO7), hand line	0%	75.7	less than 0.01%	No	Hand lining on commercial boats for recreation.
Other species (mainly BCO7), hand line	0%	10.4	less than 0.01%	No	Hand lining on commercial boats for recreation.
Albacore troll	0%	2.8	less than 0.01%	No	Is highly unlikely to occur in this confined bay

¹⁰Main fishstock refers to the main species caught in the fishing cluster, but does not include all species taken by those fishing events.

¹¹ The amount of fishing overlapping with farm footprints is more precisely estimated where fishing location is reported by specific point coordinates rather than general statistical areas. The presence of a fishery within a footprint might be mistaken or the number of days overestimated when the fishing events were not mapped to precise locations. In these cases, other knowledge or available information may be used to confirm whether a fishery might potentially be affected.

Exclusion of fishing

48. I consider the amount of fishing that will be excluded is likely to be minimal. Pot, longline and hand line fishing, hand gathering, trolling, and diving may occur close by. However, given that marine farms already exist in close proximity to the site, the additional obstruction to commercial fishing is likely to be negligible.

49. The fisheries given in Table 3 were identified by overlaying exclusion areas for each fishing method with the mapped fishing events in CatchMapper. The exclusion areas, also termed footprints of the proposed site, include appropriate buffer zones around the farm depending on the type of fishing method. Towed fishing methods have larger footprints, ie, larger areas from which they would be excluded, than static fishing methods. Only the new footprint area where fisheries have not already been excluded by existing authorised aquaculture is included in this assessment.

50. Cod potting, trolling, and longline fishing, if any occurs, would all be excluded from within the immediate boundaries of the proposed site.

Availability of other fishing areas

51. I consider alternative areas are available to absorb any commercial fishing displaced from the proposed site, if there is any, because:

- the annual catches of each species potentially caught at this site are a negligible percentage of the total catches for those species within the relevant QMA (Table 3);
- the same methods as those possibly used at the proposed site could be used elsewhere in the relevant QMA for each fishstock; and
- there is nothing special or unique about the fisheries habitat in the proposed site.

Increased cost of fishing

52. I consider that the aquaculture activities at the proposed site are highly unlikely to increase any cost of commercial fishing. The proposed site is not unique or especially productive for fishing and the area excluded is very small compared to other fishing grounds available nearby.

Likely effect on fishing

53. Overall, I consider the aquaculture activities at the proposed site will have a negligible adverse effect on commercial fishing.

54. Catchmapper was used to estimate that on average less than 1 kg of fish per year were possibly caught from the footprint of the proposed farm over the 11 most recent years (from the fisheries assessed as potentially affected in Table 3). Fisheries New Zealand considers that this is such a small amount that it is highly likely that no commercial fishing occurs within the area of coastal permit U190336.

Cumulative effects

55. I consider existing aquaculture in the Marlborough Sounds has affected commercial fishing. However, I consider the cumulative effects on commercial fishing, including the aquaculture activities at the proposed marine farm, will not be undue.

56. There is about 55 ha of authorised aquaculture space in East Bay where the proposed site is located. There are also about 3 300 ha of marine farms in the wider Marlborough Sounds that make up about 33% of the 14 900 ha of aquaculture in FMA 7.

57. I consider the cumulative effects on commercial fishing, including from the aquaculture activities at the proposed site, will not be undue because:

- for any fish stocks potentially affected by the aquaculture activities at the proposed site, the cumulative effect has previously been assessed as a maximum of approximately 0.047% effect on any fishery (school shark (SCH7)), and not undue; and
- the amount of additional catch that might have been displaced at the proposed site is considered to be negligible.

AQUACULTURE DECISION

58. I am satisfied – based on all relevant information available to me – the activities proposed for the area authorised by coastal permit U190336 will not have an undue adverse effect on:

- a) recreational fishing, and
- b) customary fishing, and
- c) commercial fishing.

59. Accordingly, my decision is a determination for coastal permit U190336 with regard to:

- a) recreational fishing, and
- b) customary fishing, and
- c) commercial fishing.

60. The area of the determination on recreational, customary and commercial fishing is 0.15 ha within the following coordinates (NZTM2000):

Point	Easting	Northing
1	1714247.501	5443448.807
2	1714243.112	5443442.183
3	1714118.039	5443524.989
4	1714300.300	5443800.031
5	1714123.581	5443533.308
6	1714164.152	5443506.422
7	1714163.038	5443504.741

61. The reasons for my decision are set out in the conclusions for recreational, customary and commercial fishing in this report.



David Scranney
Manager Customary Fisheries and Spatial Allocations
Fisheries New Zealand – Tini a Tangaroa
Ministry for Primary Industries – Manatū Ahu Matua

Dated 20 May 2020

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APPENDIX A: SITE AND STRUCTURES MAPS

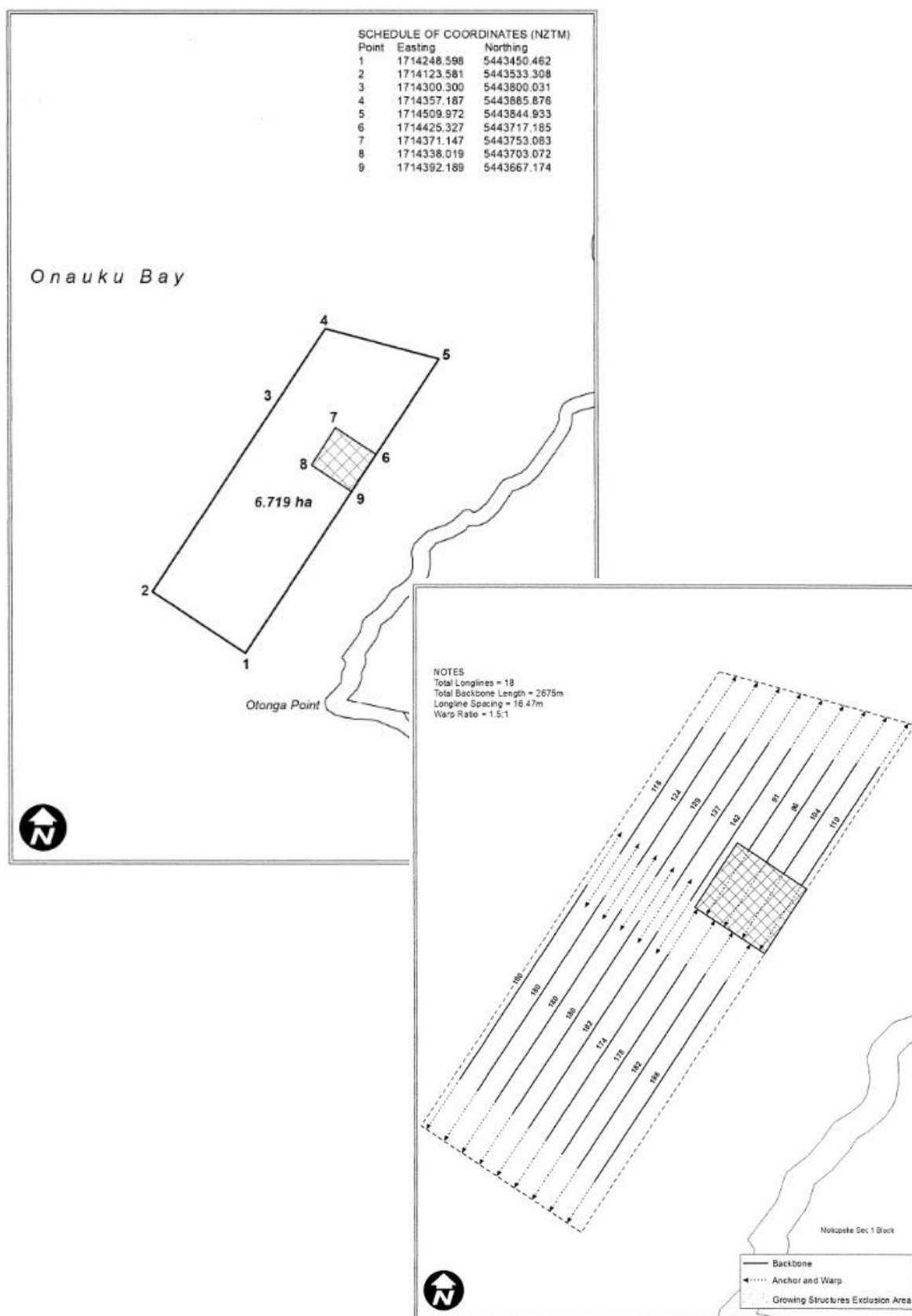
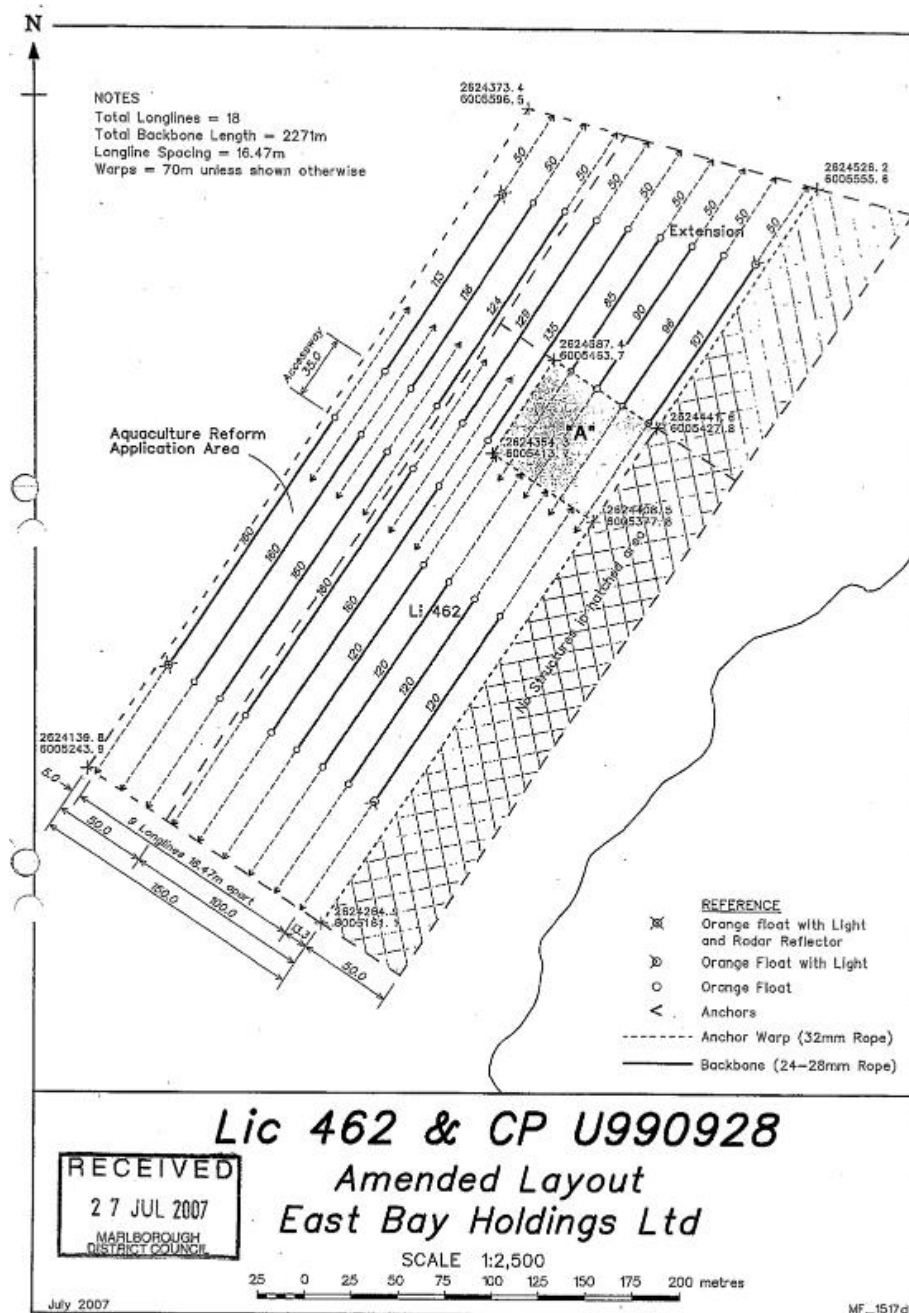


Figure 1. Copies of site map and structures plan showing location of new space and structures taken from Marlborough District Council coastal permit decision paper for U190336.



APPENDIX B: ADDITIONAL STATUTORY CONTEXT

1. Section 186E(3) of the Fisheries Act¹² requires me, in making an aquaculture decision, to have regard to any:
 - a. information held by the Ministry for Primary Industries; and
 - b. information supplied, or submissions made, to the Director-General under section 186D(1) or (3) by:
 - i. an applicant for or holder of the coastal permit;
 - ii. any fisher whose interests may be affected;
 - iii. persons or organisations that the Director-General considers represent the classes of persons who have customary, commercial or recreational fishing interests that may be affected by the granting of the coastal permit or change to, or cancellation of, the conditions of the coastal permit; and
 - c. information that is forwarded by the regional council; and
 - d. any other information that the Director-General has requested and obtained.
2. Section 186F of the Fisheries Act specifies an order of processing that must be followed in making aquaculture decisions. But section 186F(5) allows aquaculture decisions to be made in a different order from that specified if I am satisfied that in making an aquaculture decision out of order it will not have an adverse effect on any other aquaculture decision that has been requested. I am so satisfied in this case.
3. Section 186GB(2) of the Fisheries Act says that if a pre-request aquaculture agreement has been registered under section 186ZH in relation to the areas that the coastal permit relates to, I must not have regard to the undue adverse effects on commercial fishing in respect of any stocks covered by the pre-request aquaculture agreement when having regard to the matters specified in section 186GB(1). No pre-request aquaculture agreements have been registered in relation to coastal permit U180982.
4. Section 186GB(1)(b) requires an assessment of the likely effects of the aquaculture activities on fishing of any fishery including the proportion of any fishery likely to be affected. “Fishery” is not defined either in section 186 or elsewhere in the Fisheries Act. However, “stock” is defined in section 2 to mean any fish, aquatic life, or seaweed of one or more species that are treated as a unit for the purposes of fisheries management. Parts (3) and (4) of the Fisheries Act focus on “stocks” for the purpose of setting and allocating Total Allowable Catches and managing species within the quota management system (QMS). Sections 186GB(1)(f) and (2) also refer to “stock” with specific regard to adverse effects on commercial fishing. So for the purpose of my decision under section 186E, I consider a commercial fishery is a fish stock delineated by a fisheries management area (FMA) or quota management area (QMA).

¹² Section 186E(3)(a) of the Fisheries Act refers to the ‘Ministry of Fisheries’ which is now the Ministry for Primary Industries. Section 186E(3)(b) and (d) refers to the ‘chief executive’ who is now the Director-General.

5. I consider the relevant recreational and customary fishery are as I have described in the assessment above in “*Location of the coastal areas relative to fishing area.*”

6. Section 186C of the Fisheries Act does not define “cumulative effect” beyond what is provided in section 186GB(1)(f) that the effect includes any structures authorised before the introduction of any relevant stock to the QMS. For the purpose of my decision under section 186E, “cumulative effect” on commercial fishing includes the total effect of all authorised aquaculture activities within the relevant QMA or FMA. For recreational and customary fisheries, the relevant areas for considering “cumulative effects” are as I have described in the assessment above in my consideration of section 186GB(1)(a) and (f). Sections 186GB(1)(a) and (f) relate to location at proposed site in relation to where fishing occurs and the cumulative effect of aquaculture, respectively.

7. The *Fisheries (South Island Customary Fishing) Regulations 1998* (the South Island Regulations) define customary food gathering as the traditional rights confirmed by the Treaty of Waitangi and the *Treaty of Waitangi (Fisheries Claims) Settlement Act 1992*, being the taking of fish, aquatic life, or seaweed or managing of fisheries resources, for a purpose authorised by Tangata Tiaki/Kaitiaki, including koha, to the extent that such purpose is consistent with tikanga Māori and is neither commercial in any way nor for pecuniary gain or trade.

8. The South Island Regulations and regulation 50 and 51 of the Amateur Regulations provide for Tangata Tiaki/Kaitiaki to determine the customary purpose for which fish, aquatic life, or seaweed may be taken, methods used, seasons fished, size and quantity taken etc. The South Island Regulations and regulations 50 and 51 do not contemplate restrictions under the Fisheries Act on the quantity of fish taken or the methods used to take fish. Should tangata whenua fish without customary authorisations, all the recreational limits under the Amateur Regulations apply.

APPENDIX C: COMMERCIAL FISHING REPORTING AND ANALYSIS

1. Historically, fishing catches were reporting by a set of statistical areas providing only coarse-scale information about where commercial fishing occurs. However, since 2007/08 vessels over 6 m long that have used trawl or line fishing methods have reported the start position of each fishing event by latitude and longitude to within 1 minute, which equates to around 1 nautical mile (nm). Since 2006/07, start positions for netting methods have reported to within 2 nm. Using this fine scale position data, Fisheries New Zealand has modelled and mapped fishing intensity for different clusters of fishing, characterised by a type of fishing gear and the main species caught.¹³ This detail can be commercially sensitive and may not be publically released
2. Until recently, vessels less than 6 m long still reported by statistical areas and so the precise location of their fishing is unknown. However, based on information from Fisheries Officers and Maritime New Zealand, Fisheries New Zealand has mapped long lining, bottom trawling and set netting by vessels less than 6 m as being within enclosed bays and within 3 nm of open coasts. Knowledge about species and information from commercial fishers and fishing companies, and Fisheries Officers can also help to determine whether specific types of fishing are likely to occur in an area.
3. Fishing effort that is only reported by statistical area was apportioned evenly across the area available for fishing although some areas are likely to include more productive habitats than others. The parts of the statistical area available for fishing for each type of fishing method are defined by using all available information (including regulated closures, bathymetry, seabed substrate, and consultation with fishers) about where the method is likely to be used. Where fishing is reported to the statistical area level, there is increased uncertainty as to where fishing events have taken place within the statistical area.
4. The amount of all mapped fishing events that overlap with a proposed farm footprint is calculated. Trip landings are apportioned to the overlapping part of each event. These are summed and annually averaged for each fishery cluster and fishstock to estimate the amount of fish likely to have been landed within the footprint.
5. The amount of fishing was averaged over October fishing years 2007/08 to 2017/18. Eleven years is long enough to take into account natural variation in the abundance and distribution of fish stocks and fishing effort so that likely average future fishing is fairly represented.

¹³ MPI developed the CatchMapper tool to spatially model the estimated catch from landing data. This informs our assessment, and particularly, Table 3. For more information see Osborne, TA 2018 Forecasting quantity of displaced fishing Part 2: CatchMapper - Mapping EEZ catch and effort. New Zealand Aquatic Environment and Biodiversity Report No. 200. Downloaded on 4 March 2019 from <https://fs.fish.govt.nz/Page.aspx?pk=113&dk=24611>