Response ID ANON-URZ4-5FYV-Y

Submitted to Fast-track approval applications
Submitted on 2024-05-02 08:47:29

Submitter details

Is this application for section 2a or 2b?

2B

1 Submitter name

Individual or organisation name:
Apex Marine Farm Limited

2 Contact person

Contact person name:
Emma Deason

3 What is your job title

Job title:
Associate Solicitor

4 What is your contact email address?

Email:
s 9(2)(a)

5 What is your phone number?

Phone number:
s 9(2)(a)

6 What is your postal address?

Postal address:

Gascoigne Wicks Lawyers,
79 High Street,
Blenheim 7240

7 Is your address for service different from your postal address?

No

Organisation:

Contact person:

Phone number:

Email address:

Job title:

Please enter your service address:

Section 1: Project location

Site address or location

Add the address or describe the location:

Onapua Bay, Tory Channel, Marlborough Sounds

File upload:
Appendix E - Site Location Map - Onapua.pdf was uploaded

Upload file here:
Appendix C - Overview Map - Onapua Bay.pdf was uploaded

Do you have a current copy of the relevant Record(s) of Title?

No

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Who are the registered legal land owner(s)?

Please write your answer here:

No one: Neither the Crown nor any person owns the common marine and coastal area, per s 11 Marine and Coastal Area (Takutai Moana) Act 2011.

Detail the nature of the applicant's legal interest (if any) in the land on which the project will occur

Please write your answer here:

The applicant requires a resource consent to operate a marine farm in this location, and an aquaculture decision under the Fisheries Act. The applicant is also the applicant in a private plan change and concurrent resource consent application, and the appellant in an Environment Court appeal. Both processes relate to this project. The application documents are online here:
https://www.marlborough.govt.nz/services/property-files-online?searchType=Resource+Consent+Number&resourceConsentNumber=U170040

Section 2: Project details

What is the project name?

Please write your answer here:
New Onapua Bay Marine Farms

What is the project summary?

Please write your answer here:

The project consists of a new three block marine farm in Onapua Bay, Tory Channel, Marlborough Sounds. The project mirrors the private plan change and resource consent application lodged in 2017, the documents for which are available online here:
https://www.marlborough.govt.nz/services/property-files-online?searchType=Resource+Consent+Number&resourceConsentNumber=U170040

What are the project details?

Please write your answer here:

Establishment and operation of a new three block marine farm in Onapua Bay, Tory Channel. The proposed marine farm area is in three distinct blocks of: (A) 7.5 hectares, (B) 5.43 hectares and (C) 2.80 hectares. The project is 15.73 hectares in total, on the northern shore of Onapua Bay.
The project's purpose is to provide new marine farming space to flat farm oysters and algae. The specific species sought to be farmed are: Flat oysters, Undaria pinnatifida, Macrocystis pyrifera, Ecklonia radiata, Gracilaria spp and Pterocladia sp., Gigartina sp., Grateloupia spp, Aeodes nitidissima, Callophyllis spp, Gelidium sp., Ulva spp., Porphyra sp., Asparagopsis armata.
The project is seeking to boost the resilience of the marine farming industry, especially for flat oysters. Further, seaweed farming is specifically flagged in Government policy as a key opportunity to grow the aquaculture industry (refer:
https://www.mpi.govt.nz/dmsdocument/49240-Accelerate-the-Aquaculture-Strategy-investment-roadmap).
The new farming space would enable diversification of supply, which would help to keep the industry going if ever there was a biosecurity or other issue threatening supply from other places, such as Bluff. This will allow International Best Practice to be followed via rotation of each year class to manage biosecurity risks affecting flat oysters, in particular Bonamia sp. Each area will be at a different stage of production in any given year. Harvesting at Onapua will occur once in a three year cycle. This would enable oysters to grow to 35-60g over a maximum period of 2 years and 4 months. This would then allow for a 7 - 8 month fallowing period in each cycle. The space would enable lower stocking density, which assists oyster stocks to build up a natural level of resistance to Bonamia sp. Algae, such as Asparagopsis armata, has the potential to reduce CH4 emissions from farmed sheep and cattle when used as a supplement to animal feeds.

Describe the staging of the project, including the nature and timing of the staging

Please write your answer here:

The applicant is applying to develop all three blocks as needed, with no staging imposed.

What are the details of the regime under which approval is being sought?

Please write your answer here:

Resource consent (coastal permit) under the Resource Management Act 1991 and an aquaculture decision under the Fisheries Act 1996.

If you seeking approval under the Resource Management Act, who are the relevant local authorities?

Please write your answer here:

Marlborough District Council

What applications have you already made for approvals on the same or a similar project?

Please write your answer here:

Private plan change and concurrent resource consent application lodged with Marlborough District Council, in January 2017. That application is on hold and unresolved. Marlborough District Council originally proposed a Variation 1B to the proposed Marlborough Environment Plan to capture this project, but that process has not yet progressed. The applicant also lodged an appeal with the Environment Court seeking that the proposed Marlborough Environment Plan include Aquaculture Management Areas for the marine farms.

Is approval required for the project by someone other than the applicant?

Yes

Please explain your answer here:

The project requires resource consent from Marlborough District Council and an aquaculture decision from the chief executive of the Ministry for Primary Industries.

If the approval(s) are granted, when do you anticipate construction activities will begin, and be completed?

Please write your answer here:

The site would be fully developed within 2 years of the project obtaining consent.

Section 3: Consultation

Who are the persons affected by the project?

Please write your answer here:

Marlborough District Council, as the relevant local authority. The applicant is aware of the Statutory Acknowledgements relating to iwi claims under the Treaty of Waitangi and acknowledged by the Crown. The following iwi have been consulted via the private plan change and concurrent resource consent application process:

(a) Ngāti Apa ki te Rā Tō
(b) Ngāti Kōata Trust
(c) Ngāti Rārua Iwi Trust
(d) Te Runanga o Ngāi Tahu
(e) Te Ātiawa o Te Waka-a-Māui
(f) Te Runanga O Ngāti Kuia
(g) Te Runanga a Rangitane O Wairau
(h) Ngati Toa Rangatira

In terms of the Marine and Coastal (Takutai Moana) Act 2011, the following applicants include Onapua Bay in their application for customary marine title and/or protected customary rights):

(a) Te Ātiawa o Te Waka a Maui (MAC-01-12-017 and CIV-2017-485-365);
(b) Te Rūnanga o Rangitāne o Kaituna Inc (Michael David Bradley on behalf of) (CIV-2017-485-167);
(c) Tahuaroa-Watson whānau , Puketapu Hapū (CIV-2017-485-172) (MAC-01-12-012);
(d) Te Rūnanga a Rangitāne o Wairau (Rangitāne o Wairau Trust) (CIV-2017-485-251);
(e) Ngāti Apa ki te Ra To (MAC-01-12-006);
(f) Te Runanga o Ngati Rarua (MAC-01-12-008); and
(g) Ngāti Toa Rangatira (MAC-01-12-021).

Detail all consultation undertaken with the persons referred to above. Include a statement explaining how engagement has informed the project.

Please write your answer here:

The applicant is not aware of any issues from tangata whenua's perspective, via the 2017 application.
The timeframe for lodging this application has not given sufficient time to consult. Absence of consultation is why the applicant is seeking that the project be included in Schedule 2B.

In addition, consultation with Department of Conservation was undertaken in 2015 and 2016 before the private plan change and resource consent

application was lodged. The Department confirmed it would not oppose marine farming at this location, provided the consents could be reassessed at the time of future consent renewal applications (ie. The Department did not support controlled activity status). It preferred to leave consent duration to the Marlborough District Council. That correspondence is attached.

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Appendix N - Correspondence with Department of Conservation.pdf was uploaded

Describe any processes already undertaken under the Public Works Act 1981 in relation to the land or any part of the land on which the project will occur:

Please write your answer here:

N/A

Section 4: Iwi authorities and Treaty settlements

What treaty settlements apply to the geographical location of the project?

Please write your answer here:

Refer to private plan change and concurrent resource consent application documents:
https://www.marlborough.govt.nz/services/property-files-online?searchType=Resource+Consent+Number&resourceConsentNumber=U170040

The Applicant recognises that Ngāti Apa ki te Rā Tō, Ngāti Kuia, Rangitāne o Wairau, Ngāti Kōata, Ngāti Rārua, Te Runanga o Ngāi Tahu, Te Ātiawa o Te Waka-a-Māui and Ngati Toa Rangatira have statutory acknowledgments in the area of the application site. The applicant is not aware of any issues from tangata whenua's perspective, via the 2017 application.

Are there any Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 principles or provisions that are relevant to the project?

No

If yes, what are they?:

Are there any identified parcels of Māori land within the project area, marae, and identified wāhi tapu?

No

If yes, what are they?:

Is the project proposed on any land returned under a Treaty settlement or any identified Māori land described in the ineligibility criteria?

No

Has the applicant has secured the relevant landowners' consent?

No

Is the project proposed in any customary marine title area, protected customary rights area, or aquaculture settlement area declared under s 12 of the Māori Commercial Aquaculture Claims Settlement Act 2004 or identified within an individual iwi settlement?

No

If yes, what are they?:

Has there been an assessment of any effects of the activity on the exercise of a protected customary right?

Yes

If yes, please explain:

There are no established areas of protected customary rights or customary marine title within the meaning of the Marine and Coastal Area (Takutai Moana) Act 2011, within the application site.

Upload your assessment if necessary:
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Section 5: Adverse effects

What are the anticipated and known adverse effects of the project on the environment?

Please describe:

Refer to private plan change and resource consent application documents:
https://www.marlborough.govt.nz/services/property-files-online?searchType=Resource+Consent+Number&resourceConsentNumber=U170040

In a general sense, the potential adverse effects of longline marine farming are well studied and understood. They are also highly localised and reversible over time (See, for example, Overview of Ecological Effects of Aquaculture (Ministry for Primary Industries, 2013), available here: https://www.mpi.govt.nz/dmsdocument/4300-Overview-of-ecological-effects-of-Aquaculture).

Effects are less for oysters and seaweed species, than they are even for greenshell mussels. In addition, marine farms can provide positive effects via ecosystem services (Stenton-Dozey, J., & Broekhuizen, N. 2019. Provision of ecological and ecosystem services by mussel farming in the Marlborough Sounds. NIWA CLIENT REPORT: 2019020CH. 141p, available here: https://www.marinefarming.co.nz/site_files/24792/upload_files/Fullreport_28.07.2021update.pdf?dl=1).

The private plan change and resource consent application includes a benthic/ecological assessment (Davidson, R.J.; Forrest, R.; Richards, L.; Asher, R.; Edwards, R. 2016. Biological report for a marine farm application located in Onapua Bay, Tory Channel. Prepared by Davidson Environmental Ltd. for Apex Marine Farm Limited. Survey and monitoring report no. 827) which found the site to be suitable for the project. The proposed Block B includes a structures exclusion area, on the basis of ecological advice. There are no mapped Ecologically Significant Marine Sites in the MEP, in this Bay.
The project site is not within any mapped Outstanding Natural Landscape or Outstanding Natural Character in the MEP. The site is within an area of High Natural Character (though that mapping is under appeal). An assessment was provided by a Landscape Architect and is available online (https://eservices.marlborough.govt.nz/download/files/9C99pFKOXiNw2eAW3IQpHyZr5Uuk4WWAcb8xpers6c9C).

The expert advice the applicant has received is that the site is suitable for the project. There may be some effects on the mapped area. The bay is highly modified, including from extensive forestry. As above, there are no mapped Ecologically Significant Marine Sites in the MEP, in this Bay.
The farm would have lighting as required for maritime safety, and those would be visible at night. However, those lights are not of a nature that would interfere with the darkness of the night sky.
There would be minor adverse amenity effects for residents, and for some of the people who pass the site in a vessel or fly over in aircraft (Depending on their view of marine farms.). Those effects would mainly be visual in nature, and diminish with distance from the farm. There would be no odour associated with the farm. The main noise generated is during harvest, which occurs infrequently and over relatively short periods. That noise would unlikely be audible from the nearest dwellings. Service vessels will only be at the site intermittently.

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Section 6: National policy statements and national environmental standards

What is the general assessment of the project in relation to any relevant national policy statement (including the New Zealand Coastal Policy Statement) and national environmental standard?

Please write your answer here:

Refer to private plan change and resource consent application documents:
https://www.marlborough.govt.nz/services/property-files-online?searchType=Resource+Consent+Number&resourceConsentNumber=U170040
Since that application was prepared, the only other relevant national level document is the Resource Management (National Environmental Standards for Marine Aquaculture) Regulations 2020 (NES-MA). The premise of NES-MA is to enable the reconsenting of existing marine farms, as well as change of species and structures, so the NES-MA is not directly relevant to an application for new aquaculture space.

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Section 7: Eligibility

Will access to the fast-track process enable the project to be processed in a more timely and cost-efficient way than under normal processes?

Yes

Please explain your answer here:

The current private plan change and concurrent resource consent application process was lodged in 2017 and is still unresolved. That process was essentially put on hold in mid-2017 to enable it to run alongside the anticipated new aquaculture provisions in the proposed Marlborough Environment Plan (MEP). That was to be captured in the original 'Variation 1B' to the MEP. That did not ultimately progress (ie. was not notified). Initial feedback from residents led to Council considering that it needed to receive technical advice. Instead, Apex made submissions on Variation 1 (the MEP aquaculture provisions) seeking to include three new AMAs in Onapua Bay. Marlborough is in the process of resolving some outstanding appeals on the underlying MEP, many appeals on Variation 1 to the MEP, as well as other plan variations including: Variations 2, 3, 6 and 7. Other upcoming variations are listed on the Council's website, which are also still in the development stage:
https://eservices.marlborough.govt.nz/programmes/ListProgrammeEvents?id=5942820
It is likely to be several years before all appeals on the MEP are heard and resolved.

What is the impact referring this project will have on the efficient operation of the fast-track process?

Please write your answer here:

This project has the benefit of a large amount of existing information, from the 2017 application as well as evidence lodged in the MEP Variation 1 hearing process (refer: https://eservices.marlborough.govt.nz/programmes/ListProgrammeEvents?id=2904026)
That includes a large amount of technical information and evidence to justify the appropriateness of the new marine farm. In this regard, a Fast-track panel would already have a substantial understanding of the project.

Has the project been identified as a priority project in a:

Central government plan or strategy

Please explain your answer here:

The Aquaculture Strategy 2020 (https://www.mpi.govt.nz/dmsdocument/15895-The-Governments-Aquaculture-Strategy-to-2025) seeks substantial boost to the aquaculture industry in New Zealand. That strategy document refers specifically to the aspiration of looking at seaweeds and in particular how they can sequester carbon and buffer ocean acidification.

Will the project deliver regionally or nationally significant infrastructure?

Not Answered

Please explain your answer here:

Will the project:

Please explain your answer here:

Will the project deliver significant economic benefits?

Yes

Please explain your answer here:

Apex Marine Farm have been farming the flat oyster since 1985. In the early days it was not economic. Over the past 10 years of cultivation expenditure covered variable costs and made a contribution to fixed costs. But as explained in the private plan change report (Schedule 2, 'Report by Bruce Hearn', (https://www.marlborough.govt.nz/client-api/marlborough/property-files?url=https%3A%2F%2Fmdc-datascape.au-s1.cloudhub.io%2Fapi%2Fdatascape%2Fengage
paragraphs 28 to 30, page 10) new techniques have revolutionised spat collection and on-growing. This was previously an area of high cost.

This change in method was also noted in the independent report (commissioned by MPI) of Don Collier dated 2 May 2022 on pages 7 and 8 under the heading "A. Spat Catching". The new techniques are detailed on page 25, paragraph 74 under "The Future of Oyster Farming/Emerging Technologies" in our private plan change report
(https://www.marlborough.govt.nz/client-api/marlborough/property-files?url=https%3A%2F%2Fmdc-datascape.au-s1.cloudhub.io%2Fapi%2Fdatascape%2Fengage

Consenting this project, along with MPI approval, will enable implementation of the recommendation of a Technical Advisory Group (TAG) in its 2019 report (published 2020). That report is online here:
https://www.mpi.govt.nz/dmsdocument/41283-Report-of-the-Technical-Advisory-Group-2019-on-a-Return-to-Flat-Oyster-Farming-2327-September-2019

In addition to increasing production in New Zealand, this project will lead to significant economic benefits as other farmers take up the technology developed and apply it regionally inshore and in open ocean farming. In brief:

(a) Apex farms a unique species with a peculiar biology shared only with Chile.
(b) Apex operates a unique method of cultivation recently developed based on that peculiar biology and believe this is likely to only be available in Marlborough and perhaps Chile.
(c) By world standards, Apex's oysters consistently have an extra-ordinarily consistent and high meat/shell ratio.
(d) They are an especially fast-growing species when given the appropriate water and space.
(e) There is a counter season opportunity with the populous Northern Hemisphere where in some countries, notably North America, they prefer a smaller oyster. There are also opportunities in China.

In short, the potential for farming of flat oysters is huge. Techniques already proven provide opportunities inshore and in open ocean farming. Worldwide, the farming and marketing of flat oysters of the ostreae species represent only 0.2% of total world production of oysters which is almost entirely the European flat oyster ostrea edulis.

Will the project support primary industries, including aquaculture?

Yes

Please explain your answer here:

When Apex started farming flat oysters in 1985 there were no other farmers interested. As Apex developed, got systems working and went to market, Kono, a wholly owned subsidiary of Wakatū Incorporation, started farming in Port Underwood in 2010. Apex worked in collaboration with them, including partnering in a SIL project (s 9(2)(b)(ii)) for the domestication and a pilot scale production of the flat oyster for export by 2016. Other companies also started in Big Glory Bay, Rakiura, Stewart Island.

Apex's patented (now expired) system of pinning oysters similar to Japanese ear hanging technology paves the way for flat oysters to be grown in open ocean systems. The high value and demand for flat oysters makes it an ideal candidate for growth in the aquaculture industry.

This application for three sites totalling 15.73ha in Onapua Bay was primarily to create a separate area for cultivation of the flat oyster ostrea chilensis to achieve single year class management and a fallowing stage following the discovery of the oyster disease Bonamia ostrea in Tory Channel. It was a diversification of risk purpose.

Both MPI and OIE recommend this biosecurity practice particularly in the presence of disease. To date we have not done this and it was one of the prime reasons for applying for this project. In the covering letter of the 2017 private plan change application the first purpose was described as: "To address biosecurity issues arising from diseases or parasites affecting oysters, in particular Bonamia sp, by creating enough oyster farming space to enable International Best Practices to be followed in terms of separation of year classes and the fallowing of farms".

In addition, the local iwi within whose rohe Apex farm (Te Ātiawa O Te Waka-a Maui) have two coastal consents for marine farming at sites 8409 and 8410 in Oyster Bay, Tory Channel, where Apex farm oysters (at farms 8411, 8412, 8413 and 8414). They have expressed interest in cultivating oysters on those sites. In Oyster Bay, Apex has a Heads of Agreement that Apex will exchange long lines and undertake farming if iwi wish to cultivate oysters, so that we achieve a biosecurity outcome of separation of year classes in an Aquaculture Bay Management Area (ABMA). All farms within any ABMA should stock the same year class and carry out the same fallow period if any risk of disease is present. Onapua Bay has previously had a marine farm licence issued at Missionary Bay at the head of Onapua but was surrendered some time ago.

Will the project support development of natural resources, including minerals and petroleum?

No

Please explain your answer here:

Will the project support climate change mitigation, including the reduction or removal of greenhouse gas emissions?

Yes

Please explain your answer here:

The applicant seeks consent to farm algae at the site. Algae, such as Asparagopsis armata, has the potential to reduce CH4 emissions from farmed sheep and cattle when used as a supplement to animal feeds. Trials in Tory Channel have been successful in growing this algae.

Will the project support adaptation, resilience, and recovery from natural hazards?

Yes

Please explain your answer here:

This project will support the aquaculture industry in adaptation, resilience and recovery from potential biosecurity threats, as a natural hazard which can substantially impact on the industry as well as the environment.

There are management methods that can minimise the disease risk – i.e. use of disease-free brood stock, farming a smaller oyster with a short two year, four months growing cycle, thus eliminating disease risk after the first spawning (Arzut et al (2006); Montes et al (2003); Robert et al (1991); Culloty (1996); Mulchy (1996)), introducing international best practice following year class separation and reduced stress. We produce world quality oysters and export to various markets. The methods we would use lend themselves to both inshore and open ocean farming.

Cultivation worldwide is undertaken in the presence of the oyster diseases Bonamia ostreae and Bonamia exitiosa, but in New Zealand Bonamia ostreae has been classified as an unwanted organism so cultivation is not permitted without a permit under s53 of the Biosecurity Act. The unwanted organism status arises from concern that an infection in Bluff oysters would decimate a naïve population.

A Technical Advisory Group (TAG) consisting of experts from USA, Ireland, Australia (2), and New Zealand (1), concluded that under certain circumstances production should be allowed to recommence in Marlborough and other areas that could be shown to be free of the disease. (See the report linked earlier in this application - in the section regarding economic benefits).

The TAG in their 2019 report is: "of the opinion that farming in Marlborough Sounds under appropriate biosecurity and compliance measures could be permitted in areas where B. ostreae has been detected with a low likelihood of compromising the B. ostreae Programme's objectives or aims. We strongly advise structured and managed farming development, with disease testing at regular intervals as indicated by the surveillance plan, and firm documentation of development, progress and production. Monitoring is a fundamental part of this."

The report continues:

"77. Once a biosecurity framework and responsibilities for proactive biosecurity are in place, TAG 2019 recommends a small-scale (one or two farms only), structured and supported return to flat oyster farming in Marlborough Sounds, so farming systems can be developed and evaluated, and the risk of B. ostreae to the wider environment properly assessed.

78. Farmers must be prepared to accept that their farming regime will be underpinned by an independently approved biosecurity plan, which will be subject to audit. Farming must be contingent on development and implementation of such a plan, while results from surveillance of wild oysters and other molluscs near the experimental farms may be used to inform the response to any detections of B. ostreae in farmed oysters.

79. TAG 2019 recognises that there are cost implications; biosecurity (plans, compliance, audits, surveillance, responses and so on) is a cost of doing business just like the costs associated with wild fisheries and MPI-levied research and compliance."

Will the project address significant environmental issues?

No

Please explain your answer here:

Is the project consistent with local or regional planning documents, including spatial strategies?

No

Please explain your answer here:

All of the relevant provisions of the proposed Marlborough Environment Plan (MEP) are under appeal. The applicant relies on the evidence and information it has obtained for the appropriateness of this project.

Anything else?

Please write your answer here:

Nothing else to add.

Does the project includes an activity which would make it ineligible?

No

If yes, please explain:

Section 8: Climate change and natural hazards

Will the project be affected by climate change and natural hazards?

No

If yes, please explain:

Section 9: Track record

Please add a summary of all compliance and/or enforcement actions taken against the applicant by any entity with enforcement powers under the Acts referred to in the Bill, and the outcome of those actions.

Please write your answer here:

Like many marine farmers there have been occasional minor issues with navigation lights across the applicant's business. These have been fixed as they have been raised by the Council. Better quality lights have also largely eliminated issues. Any offsite line(s) issues across the applicant's business have been resolved and there have been no issues for some time.

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Declaration

Do you acknowledge your submission will be published on environment.govt.nz if required

Yes

By typing your name in the field below you are electronically signing this application form and certifying the information given in this application is true and correct.

Please write your name here:
Emma Deason

Important notes