

FTC #71 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Application 2020-048 – Hananui Aquaculture Project

Date Submitted:	29 July 2021	Tracking: MfE#: BRF-34 DOC#: 21-B- 0569
Security Level	In-Confidence	MfE Priority: Urgent DOC Priority: Urgent

	Action sought:	Response by:
To Hon David Parker, Minister for the Environment	Decision on recommendations in Table A	TBA
To Hon Kiritapu Allan, Minister of Conservation	Decision on recommendations in Table A	TBA

Actions for Ministers' Office Staff	<p>Return the signed briefing to MfE and DOC.</p> <p>Send out attached letters (if agreed and signed).</p>
Number of appendices and attachments: 6	<p>Titles of appendices and attachments:</p> <ol style="list-style-type: none"> Letter from the Minister for the Environment and Minister of Conservation to relevant Ministers of the Crown Letter from the Minister for the Environment and Minister of Conservation to Southland Regional Council Letters from the Minister for the Environment and Minister of Conservation to other parties Letter from the Minister for the Environment and Minister of Conservation to the applicant Copy of application and supporting information – to send with letters to Ministers and all other parties

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
Principal Author	Rachel Ducker		
Responsible Manager	Stephanie Frame	s 9(2)(a)	✓
Director	Sara Clarke (Acting)	s 9(2)(a)	

Department of Conservation contacts

Position	Name	Cell phone	1st contact
Principal Author	Nardia Yozin		
Responsible Manager	Amy Robinson	s 9(2)(a)	✓
Director	Natasha Hayward	s 9(2)(a)	

Released under the provision of
the Official Information Act 1982

FTC #71: Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act 2020 – Joint Stage 1 decisions

Key Messages

Project Background

1. We seek your joint initial decisions on an application for referral of the Hananui Aquaculture Project (the Project) to an expert consenting panel (a panel) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (the FTCA), from Ngāi Tahu Seafood Resources Limited.¹
2. The Project will occur wholly in the Coastal Marine Area (CMA) located 2 to 6 kilometres off the northern coast of Rakiura/Stewart Island 13 km north-west of Oban.
3. The Project is to construct and operate an open ocean marine farm (salmon) within a 2500 hectare area of the CMA including 500 hectares of exclusive occupation of the CMA. The Project comprises four separate marine farms including five anchored barges proposed as operational bases for the farms. The applicant proposes to develop the Project in four stages over ten years to produce up to 16,000 tonnes of salmon per annum.
4. The Project will involve activities such as:
 - a. works to construct and install net pens, mooring lines, anchors, navigational aids and lights and other structures
 - b. disturbance and occupation of the seabed
 - c. moorings for five barges
 - d. introduction of exotic fauna
 - e. deposition of material on the seabed
 - f. discharges of water and contaminants to water
 - g. any other activities that are -
 - i. associated with the activities described in 'a' to 'f'
 - ii. within the project scope.
5. The applicant proposes an adaptive management approach where operating practices are modified throughout the life of the Project to remedy and mitigate adverse effects. The adaptive management approach is proposed in response to uncertainty of operating details and environmental effects and enables the applicant to adjust management practices if environmental effects are not being appropriately managed.
6. The Project requires coastal permits under the Regional Coastal Plan for Southland. A resource consent application for the same project was lodged with Southland Regional Council (Environment Southland) in December 2019 and is currently on hold while the applicant is preparing a response to a further information request under section 92 of the Resource Management Act 1991 (RMA).
7. We have undertaken an initial (Stage 1) analysis of the application and this is presented along with our recommendations in Table A.
8. The Project meets all the eligibility criteria in section 18(3) of the FTCA, but more information and analysis is needed to enable us to advise you on whether the Project meets the purpose

¹ The applicant is a subsidiary company of Ngāi Tahu Holdings, the investment company of the Ngāi Tahu Charitable Trust of which Te Rūnanga o Ngāi Tahu is the sole Trustee.

of the FTCA in section 18(2) and whether there are reasons to decline referral, including any of the reasons listed in section 23(5) of the FTCA. Key issues are:

- a. uncertainty of potentially adverse environmental effects
- b. the applicant's readiness to lodge complete resource consent applications with the Environmental Protection Authority (EPA)
- c. appropriateness of using the fast-track process given the scale of the Project, the timing of project benefits and the likely level of public interest
- d. effects on Māori cultural values
- e. consistency with the New Zealand Coastal Policy Statement 2010.

Issues and Risks

9. The scale of the Project is large relative to other salmon farms in New Zealand. The proposed 16,000 tonnes per annum production will result in a 103% increase in New Zealand's total volume of farmed King Salmon (15,512 tonnes in 2020²). The Project is proposed within 2500 hectares of the CMA in Te Ara a Kiwa/Foveaux Strait and to exclusively occupy 500 hectares of the CMA which is a significantly larger area of occupation than existing salmon farms in Big Glory Bay (Rakiura/Stewart Island) and other proposed open ocean salmon farms in Te Ara a Kiwa/Foveaux and Raukawa/Cook Straits.³
10. The Project has the potential for adverse environmental effects particularly on natural character, landscape, marine mammals and seabirds, and indigenous biodiversity. The environmental effects of the Project are uncertain due to its location in the open ocean, the large Project scale, the untested open ocean marine farming methodology and proposed adaptive management approach. While the applicant has completed most environmental assessments, additional work is being completed to respond to further information Environment Southland requested as part of the RMA consent application. This requires additional data and analysis from a limited pool of technical experts and peer reviewers which may take some time to source and raises concern over application readiness.
11. If you decide to progress the application and invite comments, we recommend asking the applicant to confirm; the likely timeframes to complete proposed environmental assessments; whether any peer reviews are proposed to be submitted with their consent application; and whether the application will be able to be lodged with the EPA within a reasonable timeframe should the Project be referred under the FTCA. This information will assist in considering whether the Project meets the FTCA's purpose of urgently promoting employment and supporting investment certainty while continuing to promote sustainable management of natural and physical resources.
12. Resource consent applications for salmon farming have generally⁴ been notified and in almost all cases have resulted in Environment Court appeals, and in some cases Supreme Court litigation. This is typically due to the potential for adverse environmental effects and public interest in the CMA.
13. This raises the issue of whether it is appropriate to refer this Project under the FTCA given the significant public interest in salmon farming in general and the fact that the FTCA does not provide opportunities for public notification.

² Data sourced from New Zealand Salmon Farmers Association Inc www.salmon.org.nz

³ The application documentation for Project South Marine Farm proposed in the south-east of Ruapuke Island to the east of Stewart Island refers to five 157 hectare farming areas and the application documents for Blue Endeavour in the Marlborough Sounds refer to a 1792ha area.

⁴ The New Zealand King Salmon Requests for Plan Changes and Applications for Resource Consents Board of Inquiry was an exception to standard Council processes.

14. If the Project proceeded along another consenting pathway, it is likely to generate significant public interest because of its scale, and because it is one of the first applications for open ocean salmon farming in New Zealand. Public concern might be exacerbated by the uncertain nature of the proposed adaptive management methodology for salmon farm operations and management of environmental effects. The outcome of this application has the potential to set a precedent for the management of other applications for open ocean aquaculture throughout New Zealand. Further advice can be provided on this issue in the Stage 2 briefing to inform your final referral decision.
15. The Project site is located within the statutory acknowledgement area for Rakiura/Te Ara a Kiwa under the Ngāi Tahu Claims Settlement Act 1998, that formally recognises the Ngāi Tahu cultural, spiritual, historic and traditional association with this part of the coastal marine area. The Project's northern site boundary is located adjacent to an Aquaculture Settlement Area⁵ agreed with Ngāi Tahu under the Māori Commercial Aquaculture Claims Settlement Act 2004 (Notice No. MPI 1255). If you decide to progress this Project, we recommend seeking comment from Te Rūnanga o Ngāi Tahu (TRONT) to inform your final referral decision.
16. Assessing the Project's consistency with the New Zealand Coastal Policy Statement (NZCPS) is a key matter for your consideration when making a referral decision. It is unclear if the Project is consistent with the NZCPS and more particularly Policies 11 (indigenous biodiversity), 13 (preserving natural character) and 15 (natural features and natural landscapes). We recommend that you request further information from the applicant on consistency with the NZCPS to inform your referral decision.

Recommendation

17. We recommend you progress the application to the next stage of analysis (Stage 2) and invite comments from:
 - a. Ministers listed in section 21(6) of the FTCA
 - b. Minister for Oceans and Fisheries
 - c. Minister for Economic and Regional Development
 - d. Southland Regional Council
 - e. Te Rūnanga o Ngāi Tahu
 - f. Southland Harbourmaster
 - g. Maritime New Zealand.
18. We also recommend that you request further information from the applicant and local authority as detailed in Table A.

Statutory Framework Summary

19. You must make decisions on this referral application jointly as the whole Project will occur in the CMA.
20. You may decline the referral application before seeking comments from the relevant local authorities and any relevant Ministers:
 - a. if you are satisfied the Project does not meet referral criteria in section 18 of the FTCA, (which include you being satisfied the Project meets the purpose of the

⁵ This enables the space to be used for Treaty settlement purposes with standard resource consents and private interests are unable to apply for a resource consent to carry out aquaculture activities in this area.

FTCA) (see sections 18(2) and 23(1) of the FTCA)

b. for any other reason (see section 23(2) of the FTCA).

21. If you do not decline the referral application at this stage, section 21 of the FTCA:

a. requires you to provide the application to and invite comments from the relevant local authorities and any relevant Ministers; and

b. permits you to provide the application to and invite comments from any other person.

22. You are also able to request further information from the applicant or any relevant local authority at any time before you decide to decline or accept the referral application (see section 22 of the FTCA).

Action Sought

23. Please indicate your decisions on the recommendations in Table A.

Signatures



Stephanie Frame
Manager – Fast Track Consenting
Ministry for the Environment



Amy Robinson
RMA Manager
Department of Conservation

Released under the Provision of
the Official Information Act 1982

Table A: Stage 1 initial assessment of project eligibility – projects where the Minister for the Environment and Minister of Conservation are joint decision makers

Project to progress

Project details	Project description	Project funding	Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]						Recommendations	Ministers' decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]	Any other relevant matters [section 19(f)]		
<p>Project name</p> <p>Hananui Aquaculture Project</p> <p>Applicant</p> <p>Ngāi Tahu Seafood Resources Limited</p> <p>c/- Stantec New Zealand</p> <p>Location</p> <p>Coastal marine area (CMA) 2 to 6km off the northern coast of Rakiura/Stewart Island, 13 km north-west of Oban</p>	<p>To construct and operate a marine farm (salmon) within a 2500 hectare area of the Coastal Marine Area (CMA) including 500 hectares of exclusive occupation.</p> <p>The Project comprises four separate marine farms including five anchored barges proposed as operational bases for each farm. It will be developed in four stages over ten years to produce up to 16,000 tonnes of salmon per annum.</p> <p>The Project involves activities such as:</p> <p>a. works to construct and install net pens, mooring lines, anchors, navigational aids and lights and other structures</p> <p>b. disturbance and occupation of the seabed</p> <p>c. moorings for five barges</p> <p>d. introduction of exotic fauna</p> <p>e. deposition of material on the seabed</p> <p>f. discharges of water and</p>	<p>The Project is proposed to be funded from Ngāi Tahu Seafood Resources Limited and/or the wider Ngāi Tahu Holdings Group.</p> <p>The application refers to using South Port wharf facilities for landing harvested fish. The wharf facilities are proposed to be upgraded through funding from the Government's Infrastructure Industry Reference Group. The application confirms that the Project is not dependent on this funding as there are options to use other South Port infrastructure if funding is not available.</p>	<p>Based on available information at this stage, we consider the Project is eligible for referral because:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include land returned under a Treaty settlement it does not occur in a customary marine title area or protected customary rights area under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>The applicant estimates that the Project will generate:</p> <ul style="list-style-type: none"> approximately 50-180 direct full-time equivalent (FTE) jobs in years 1-5 of the Project associated with farm construction, monitoring, farm management, harvesting and processing up to 500 jobs associated with marine farming and processing by 10 years at full production 	<p>The applicant states that the Project will provide for the social wellbeing of current and future generations as it will:</p> <ul style="list-style-type: none"> provide employment above median income for Rakiura residents provide more consistent year-round employment than other industries sustain the population and increase community participation in Rakiura and Bluff communities provide opportunities to build an economic base for iwi and provide for food security, economic development and employment for Māori. <p>The applicant states that a Cultural Impact Assessment (CIA) has been prepared by Te Ao Mārama and Tīpa Associates with Te Rūnanga o Ngāi Tahu (TRONT), ngā Papatipu Rūnanga, Tangata tiaki, Rakiura tangata tiaki, Rakiura Māori Land beneficiaries and Ahu whenua whānau participated in this process.</p> <p>The applicant states that Ngā Rūnanga have agreed to and support the mitigation strategies and actions discussed in the CIA report. The applicant has made a</p>	<p>The applicant considers that the FTCA will allow the Project to progress approximately 12 to 24 months faster than under standard RMA processes, due to the likelihood of notification and appeals under standard processes. We recommend seeking feedback from relevant local authorities, TRONT and Te Ao Mārama on use of the FTCA or standard RMA processes.</p> <p>There is a risk that technical reports to support an application may not be able to be completed in a timely way due to the scale and complexity of the Project. This has the potential to delay Project delivery and is discussed further in the section 19 (e) analysis.</p>	<p>Based on the information provided, the Project may result in the following public benefits:</p> <ul style="list-style-type: none"> generating approximately 50-180 direct full-time equivalent (FTE) jobs in years 1-5 of the Project generating up to 500 jobs over 10 years at full production assisting with monitoring of vulnerable species 	<p>The Project has the potential for adverse environmental effects on:</p> <ul style="list-style-type: none"> coastal terrestrial, coastal interface and coastal marine landscapes natural character water column (from dissolved oxygen, carbon dioxide and nutrients) seabed and benthic communities aquatic ecosystems marine mammals and sharks native fish species shellfish avifauna coastal access and navigation <p>We consider the following adverse effects have the potential for greater significance:</p> <ul style="list-style-type: none"> visual, landscape and natural character effects closer to shore where the association between land and sea is greatest and where there is retention of a relatively high level of naturalness and natural character potential effects, particularly of net entanglement on threatened and at risk species including; hoiho/yellow-eyed penguin, seabirds including Tawaki 	<p>A resource consent application for this Project was lodged with Southland Regional Council in December 2019. Further information was requested on 10 February 2020. The applicants progressively responded to this information request.</p> <p>Other salmon farms have been established since the 1970s in Big Glory Bay, in the same region. Sanford lodged an application for Project South Open Ocean Marine Farm near Ruapuke Island at the south-east end of Te Ara a Kiwa/Foveaux Strait in March 2020 which is currently on hold pending further information.</p> <p>The Government's Aquaculture Strategy 2020 has a vision that New Zealand is globally recognised as a world-leader in sustainable and innovative aquaculture management with a goal of achieving \$3 billion annual sales by 2035. Key initiatives to achieve this goal are extending aquaculture into the open ocean and that aquaculture growth supports regional prosperity and Māori and the community benefit from this growth.</p> <p>The Southland Regional Development Strategy 2015 identifies the potential for aquaculture to become a major industry in Southland. Other regional initiatives to support growth of aquaculture identified in</p>	<p>a. Note that section 23(3) of the FTCA permits you to decline the referral application without inviting comments from the relevant local authorities and any relevant Ministers.</p> <p>b. Note that the application has not been provided to, nor have any comments been sought from, relevant local authorities or relevant Ministers but that you are required to do so if you do not decline the application under section 23(3) of the FTCA.</p> <p>c. Note that section 21(3) of the FTCA permits you to forward an application to, and invite written comments from, any other person.</p> <p>d. Note that section 22 of the FTCA permits you to request further information from the applicant or relevant local authorities at any time before you decide whether to accept or decline an application.</p> <p>e. Agree to progress the Hananui Aquaculture Project to Stage 2 analysis. The Project warrants further analysis to determine whether it has the potential to achieve the purpose of the FTCA and whether the fast-track consent pathway is appropriate given the scale of the Project and its proposed location and occupation of the CMA without opportunities for public comments, the potential for adverse environmental effects, consistency with the NZCPS and Māori values, and application readiness, before providing you with a complete briefing.</p> <p>f. Agree to provide the application to, and invite comments from:</p> <ul style="list-style-type: none"> the Ministers listed in section 21(6) of the FTCA 	<p>Yes/No</p> <p>Yes/No</p>

Project details	Project description	Project funding	Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]					Recommendations	Ministers' decisions	
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]			Any other relevant matters [section 19(f)]
	<p>contaminants to water</p> <p>g. any other activities that are -</p> <p>i. associated with the activities described in 'a' to 'f'</p> <p>ii. within the project scope.</p> <p>The applicant proposes using an adaptive management methodology where management practices are modified throughout the life of the Project with the aim of remedying and mitigating adverse effects.</p>				<p>commitment to ngā rūnanga ki Murihiku (Tribal Authorities for Southland) to give iwi confidence that all cultural effects are considered and provide solutions to matters of concern. We recommend that TRONT is invited to comment on the referral application.</p>			<p>and the Foveaux Strait shag; and habitat for various marine mammals notably bottlenose dolphins, southern right whale, New Zealand sea lion</p> <ul style="list-style-type: none"> coastal access and navigation effects due to the proposed 500 hectares of exclusive occupation. <p>The applicant has prepared technical assessments on natural character, landscape and visual amenity; water column; seabed; oyster; marine mammals; seabirds; navigational risk; disease risk; and biosecurity. Further assessments including; seabirds; sharks; wild fish; and an updated natural character, landscape and visual amenity assessment are currently being prepared in response to Southland Regional Council's request for further information on the RMA consent application.</p> <p>We recommend that you seek further information from the applicant to confirm the likely timeframes to complete proposed baseline monitoring and environmental assessments, how the Project meets the preconditions for</p>	<p>the application include; the proposed investigations (and Provincial Growth Funding) into developing a land based salmon hatchery in Murihiku; availability of berthage and unloading of vessels and storage at South Port; and the use and potential for future expansion of the Ngai Tahu Seafood processing plant at Bluff.</p> <p>A review of the Regional Coastal Plan for Southland has commenced and is currently at the pre-notification policy development stage. We recommend that you seek additional information from Southland Regional Council on the status of this review.</p> <p>A further project has commenced to identify the most appropriate locations for aquaculture growth in the region.</p> <p>There is a risk that there may be significant public interest in the application particularly given that it is for a large area of exclusive occupation of the coastal marine area and that this type of marine farming is untested in New Zealand.</p> <p>Decisions to refer applications under the FTCA require consideration of the Project's consistency with relevant national policy statements including the New Zealand Coastal Policy Statement (NZCPS). Key NZCPS policies include; 3 (precautionary approach), 8 (aquaculture), 11 (indigenous</p>	<ul style="list-style-type: none"> the Minister of Oceans and Fisheries the Minister for Economic and Regional development relevant local authorities Te Rūnanga o Ngāi Tahu Maritime New Zealand Southland Harbourmaster <p>g. Agree to seek further information from the applicant on the likely timeframes to complete proposed baseline monitoring and environmental assessments, peer reviews proposed, anticipated timeframes to lodge an application, how the Project meets the adaptive management preconditions and consistency with the NZCPS and from Southland Regional Council on the current status of the review of the Regional Coastal Plan for Southland.</p> <p>h. Sign the attached letters to Ministers listed in section 21(6) of the FTCA and the Minister for Oceans and Fisheries and the Minister for Economic and Regional Development.</p> <p>i. Note that while awaiting these comments and further information, the Ministry for the Environment will, in consultation with the Office of Māori Crown Relations – Te Arawhiti, prepare a report for the purpose of section 17 of the FTCA.</p>	Yes/No

Project details	Project description	Project funding	Project eligible for referral? [section 18(3)]	Will the Project help to achieve the purpose of the FTCA? [section 18(2)]					Recommendations	Ministers' decisions
				Economic benefits and costs for people or industries affected by COVID-19 [section 19(a)]	Effect on social and cultural wellbeing of current and future generations [section 19(b)]	Likelihood Project will progress faster under the FTCA than would otherwise be the case [section 19(c)]	Public benefit [section 19(d)]	Potential for significant adverse environmental effects, including greenhouse gas emissions [section 19(e)]		
								<p>adaptive management, and whether any peer reviews are proposed to be submitted with an application should the Project be referred under the FTCA.</p> <p>This information will assist you to decide whether the Project will help to achieve the purpose of the FTCA regarding urgently creating employment and investment certainty while promoting sustainable management.</p>	<p>biodiversity), 13 (preserving natural character) and 15 (natural features and natural landscapes). We are concerned that the Project has the potential to be inconsistent with these policies in relation to: adopting a precautionary approach where effects are uncertain and potentially adverse, avoiding adverse effects on threatened species and ecosystems and habitat, avoiding adverse effects of activities on natural character of the coastal environment and on outstanding natural landscapes. We recommend asking the applicant to provide additional information regarding consistency with the NZCPS to inform a referral decision.</p>	

Signed:

Hon David Parker
Minister for the Environment

Date

Signed:

Hon Kiritapu Allan
Minister of Conservation

Date

Released under the Official Information Act 1982