

FTC #100 Application for referred project under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions:

Application 2021-048 Hananui Aquaculture

Date Submitted:	7 December 2021	MfE#: BRF-663	DOC#: 21-B-0853
Security Level	In-Confidence	MfE Priority: Urgent	DOC Priority: Urgent

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

Actions for Ministers' Office Staff	Return the signed briefing to MfE and DOC Send the Notice of Decisions letter (if signed)
Number of appendices: 6	Appendices: 1. Hananui Aquaculture project application and further information received 2. Stage 1 Briefing Note and decisions 3. Statutory Framework for making decisions 4. Draft Notice of Decisions letter to Ngāi Tahu Seafood Resources Limited 5. Section 17 Report 6. Comments received from Ministers, Southland Regional Council (Environment Southland), Te Runanga o Ngāi Tahu, Maritime New Zealand and Southland Regional Harbourmaster

Ministry for the Environment contacts

Position	Name	Cell phone	1 st contact
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Manager	Stephanie Frame	s 9(2)(a)	✓
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Department of Conservation contacts

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FTC#100: Application for referred projects under the COVID-19 Recovery (Fast-track Consenting) Act – Joint Stage 2 decisions

Key Messages

1. This briefing relates to the application received under section 20 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) from Ngāi Tahu Seafood Resources Limited for referral of the Hananui Aquaculture project (the Project) to an expert consenting panel (a panel). A copy of the application is in Appendix 1.
2. This is the second briefing relating to this application. The first (Stage1) briefing (BRF-34 and 21-B-0569) with your initial decisions annotated is in Appendix 2.
3. The Project site is located wholly in the Coastal Marine Area (CMA) between approximately two and six kilometres from the north-eastern coast of Stewart Island/Rakiura. The southern boundary of the site lies approximately 10 km north-west of Oban (Half Moon Bay).
4. The Project is to construct and operate an open-ocean marine salmon farm within a 2500-hectare area of Foveaux Strait, including 500 hectares of exclusive occupation of the CMA. The Project comprises four separate smaller marine farms, each comprising two blocks of ten circular net pens, and five anchored barges functioning as operational bases. The applicant proposes to develop the Project in four stages over ten years to produce up to 16,000 tonnes of salmon per annum.
5. The Project will involve activities such as:
 - a. placing net pens, moorings and mooring lines, anchors, navigational aids and lights in the CMA
 - b. disturbing (including by excavating or drilling and fixing structures to) the seabed
 - c. occupying the common marine and coastal area with a marine farm and associated moored vessels
 - d. aquaculture farming in the CMA, including:
 - i. introduction of exotic fauna
 - ii. deposition of material in or on the seabed
 - iii. discharges of water and contaminants to water
 - e. any other activities that are -
 - i. associated with the activities described in 'a' to 'd'
 - ii. within the Project scope described in paragraph 4.
6. The applicant proposes an adaptive management approach to monitor and modify operating practices throughout the Project life in response to increasing understanding of the Project's environmental effects.
7. The Project requires coastal permits under the Regional Coastal Plan for Southland. Overall, the Project has non-complying activity status under this plan.
8. The applicant lodged resource consent applications under the Resource Management Act 1991 (RMA) for the same project with Environment Southland in January 2020 following pre-application discussions including with Department of Conservation officers. Environment Southland reviewed the RMA application and requested additional information under section 92 of the RMA. The RMA application is currently on hold while the applicant prepares a full response to this further information request.

9. You must make a joint decision on the referral application as the Project is located wholly within the CMA.
10. We recommend you decline the referral application under section 23(1), section 23(2) and section 23 (5)(b) of the FTCA. We are not confident that the Project meets the section 18 referral criteria and consider it would be more appropriately considered through RMA standard processes due to the potential level of public interest and the Project's scale, location and potential for adverse effects. We seek your joint decision on this recommendation.

Assessment against Statutory Framework

11. The statutory framework for your decision-making is set out in Appendix 3. You must apply this framework when you are deciding whether or not to accept the application and when deciding on any further requirements or directions associated with Project referral.
12. You must decline the referral application if you are satisfied the Project does not meet the section 18 referral criteria. You may also decline the application for any other reason, including those listed in section 23(5), whether or not the Project meets the referral criteria.
13. However, before you make that decision you must consider the application and any further information provided by the applicant (in Appendix 1), the Section 17 Report (in Appendix 5), and comments from Environment Southland, relevant Ministers, Te Rūnanga o Ngāi Tahu, Maritime New Zealand and the Southland regional harbourmaster (in Appendix 6). We discuss these matters and provide our advice below.

Further information provided by applicant

14. In response to your request under section 22 of the FTCA the applicant provided further information on the following matters:
 - a. timing of completion of baseline monitoring and environmental assessments (needed to accompany any application for resource consents lodged with the Environmental Protection Authority)
 - b. timing of resource consent application lodgement
 - c. consistency of the Project with the New Zealand Coastal Policy Statement 2010 (NZCPS)
 - d. proposed adaptive management approach.
15. We have taken this information into account in our analysis and advice.

Section 17 Report

16. Te Rūnanga o Ngāi Tahu is the sole iwi authority relevant to the Project area. Te Rūnanga o Ngāi Tahu and Te Ohu Kaimona are the two relevant Treaty settlement entities.
17. The Project site lies within the area covered by the Crown's statutory acknowledgment of the particular cultural, spiritual, historic, and traditional association of Ngāi Tahu with Rakiura/Te Ara a Kiwa (the Rakiura/Foveaux Strait Coastal Marine Area).
18. Te Rūnanga o Ngāi Tahu, Te Ohu Kaimoana and the Crown signed a New Space aquaculture regional agreement under the Māori Commercial Aquaculture Claims Settlement Act 2004 on 5 October 2021. This provides Ngāi Tahu with the ability to seek RMA consents

for aquaculture development in a 16.6-hectare settlement area that abuts the proposed Project site. Any resource consents sought and determined under the FTCA for the Project will not apply to the settlement area.

Comments received

19. Comments were received from s 9(2)(f)(ii), s 9(2)(g)(i) Environment Southland, Te Rūnanga o Ngāi Tahu, Maritime New Zealand and the Southland regional harbourmaster. The key points of relevance to your decision are summarised in Table A.
20. s 9(2)(f)(ii), s 9(2)(g)(i)
21. Environment Southland supported Project referral in principle and made recommendations for technical assessments to accompany resource consent applications for the Project.
22. Te Rūnanga o Ngāi Tahu supported the Project being processed under the FTCA.
s 9(2)(f)(ii), s 9(2)(g)(i)
25. Maritime New Zealand was neutral regarding Project referral and advised that it expects navigational issues to be discussed and reviewed by a panel should the Project be referred.
26. The Southland regional harbourmaster was neutral on Project referral and reported no navigational safety concerns regarding the Project.

Section 18 referral criteria

27. A project is only eligible to be referred if you are satisfied that the Project does not include ineligible activities (section 18(3)) and will help to achieve the purpose of the FTCA (section 18(2)).
28. The Project does not include any ineligible activities under section 18(3).
29. We are confident that the Project can help to achieve the employment and investment certainty objectives of the FTCA's purpose and meets section 18(2) in this regard. However, the FTCA purpose requires that these objectives are achieved while promoting sustainable management of natural and physical resources. Section 19 provides statutory criteria on whether this element of the FTCA purpose is met, including by considering the potential for a project to have significant adverse environmental effects (s19(e)).
30. The applicant has prepared a series of technical reports on the Project's potential environmental effects, many of which have been peer reviewed by specialists engaged by Environment Southland through the RMA application process. However, the Project is for a large-scale open ocean marine farm in a location with significant environmental values. There is no precedent for this type or scale of aquaculture in New Zealand, and environmental effects cannot all be predicted or quantified with certainty. As a consequence, the potential for adverse effects, some of which may be significantly adverse, cannot be ruled out. While appropriate avoidance or mitigation may be able to address some or all of these effects, the location, scale and complexity of the Project means it is more appropriate for the merits assessment to be undertaken through a standard RMA consenting process. This will allow for broader public participation and full exchange and testing of expert evidence that may require longer timeframes than provided under the FTCA.

31. It is appropriate to adopt a precautionary approach in such circumstances, as explained in Table A. Therefore, we cannot confidently advise at this point that you can be satisfied that the Project will promote sustainable management of natural and physical resources and thereby help to achieve the FTCA purpose under section 18(2).
32. If you agree, you must decline the referral application under section 23(1) of the FTCA.

Other reasons to decline

33. Even if the Project meets the referral criteria in section 18 of the FTCA, section 23(2) of the FTCA permits you to decline to refer the Project for any other reason, including one or more of the reasons specified in section 23(5) of the FTCA. A summary of our analysis of these matters is in Table A.
34. We considered whether it is more appropriate to assess the Project under the RMA given the proposed area of occupation of the CMA¹, the scale of infrastructure proposed, the quantity of salmon produced and associated feed², the proposed operational and adaptive management approach, the untested nature of open ocean aquaculture in New Zealand, the location being two kilometres at its closest point from Stewart Island/Rakiura which has significant natural values, and the anticipated high level of public interest in such a large-scale aquaculture proposal. Further detailed consideration is necessary to ascertain consistency of the Project with the policies of the New Zealand Coastal Policy Statement (NZCPS) 2010.
35. We concluded that the complexity of these issues means that it would be more appropriate to consider them under standard RMA consenting process, which enables opportunities for wider public involvement, greater timeframes for considering complex issues, and hearings involving submissions and testing expert evidence.
36. If you agree, you may decline the referral application under section 23(2) and section 23(5)(b) of the FTCA.

Conclusions

37. The overarching purpose of the FTCA (under section 4) is to urgently promote employment to support New Zealand's recovery from the economic and social impacts of COVID-19 and to support the certainty of ongoing investment across New Zealand, while continuing to promote the sustainable management of natural and physical resources (the purpose of the RMA). Your decision on the referral application must be consistent with this purpose. Although the Project meets part of the referral criteria in section 18, including some aspects of the FTCA's purpose because it will help to urgently promote employment, we are not confident you can be satisfied that the Project will promote sustainable management of natural and physical resources or will be consistent with the directive policies of the NZCPS. On this basis, we do not consider the Project will help to achieve the purpose of the FTCA.
38. We consider that it is more appropriate for the Project to go through standard RMA processes³ due to its scale, location and complexity. We consider that there is sufficient

¹ 2500 hectares in area including 500 hectares of exclusive occupation

² 16000 tonnes of salmon per annum at completion which will result in a 103% increase in New Zealand's total volume of farmed King Salmon (15,512 tonnes in 2020) based on data sourced from New Zealand Salmon Farmers Association Inc (www.salmon.org.nz)

³ Section 23(5)(b) of the FTCA

reason to decline to refer the application under sections 23(1), 23(2) and 23(5)(b) of the FTCA.

39. Should you disagree with our recommendations and decide to refer the Project, our recommendations for directions to a panel (relating to consultation) and the applicant (relating to information to be supplied with consent applications) are included in Table A.

Next Steps

40. You must give notice of your decisions on the referral application, and the reasons for them, to the applicant and the persons, entities and groups listed in section 25 of the FTCA.
41. We have attached a letter to the applicant based on these requirements and our recommendations (refer Appendix 4). We will assist your offices to give copies to all relevant parties.

Released under the provisions of
the Official Information Act 1982

Recommendations

1. We recommend that you:

- a. **Note** that section 23(1) of the COVID-19 Recovery (Fast-track Consenting) Act 2020 (FTCA) requires you to decline this application for referral unless you are satisfied that the Project meets the referral criteria in section 18 of the including that it would help to achieve the FTCA's purpose.
- b. **Note** that when assessing whether the Project would achieve the FTCA's purpose, you must consider whether the Project's employment and economic benefits can be met while continuing to promote the sustainable management of natural and physical resources.
- c. **Note** that before deciding to decline the application for Project referral under section 23 of the FTCA you must consider the following if they have been sought and provided within the required timeframe:
 - i. the application
 - ii. the report obtained under section 17 of the FTCA
 - iii. any comments and further information sought and provided within the required timeframe.
- d. **Decline** to accept the application from Ngāi Tahu Seafood Resources Limited to refer the Project to a panel under section 23(1) and 23(2) of the FTCA for the following reasons:
 - i. although the Project meets part of the referral criteria in section 18 including some aspects of the FTCA's purpose because it will help to urgently promote employment, we do not consider that you can be satisfied that the Project will promote sustainable management of natural and physical resources and therefore help to achieve the FTCA's purpose
 - ii. it is more appropriate for the Project to be considered under the Resource Management Act 1991 due to its scale, location and complexity.

Yes/No
- e. **Sign the attached (Appendix 4)** notice of decisions to Ngāi Tahu Seafood Resources Limited.

Yes/No
- f. **Note** that should you decide to accept the referral application, our recommendations for appropriate directions to a panel (relating to consultation) and the applicant (relating to information to be supplied with consent applications) are included in Table A.

- g. **Note** that to ensure compliance with section 25(3) of the FTCA, you must ensure that the decisions, the reasons, and the Section 17 Report are published on the Ministry for the Environment's website. We will work with your office to complete this task.

Signatures



Stephanie Frame
Manager – Fast-track Consenting
Ministry for the Environment

Date 7 December 2021



Linda Kirk
Acting RMA Manager
Department of Conservation

Date 6 December 2021

Hon David Parker
Minister for the Environment

Date

Hon Kiritapu Allan
Minister of Conservation

Date

Table A: Stage 2 - Project Summary and Section 24 Analysis for projects where the Minister for the Environment and Minister of Conservation are joint decision makers

Project details	Project description	Does all or part of the Project meet the referral criteria in section 18?		Summary of comments received	Section 23 assessment – potential reasons for declining	Referral conclusions & recommendations
		Project eligibility referral (section 18(3a - d))	Does the Project help achieve the purpose of the FTCA (section 19)?			
Application name Hananui Aquaculture project Applicant Ngāi Tahu Seafood Resources Limited Location Coastal Marine Area (CMA) located 2 to 6 kilometres off the north-eastern coast of Rakiura/ Stewart Island, 13 km north-west of Oban (Half Moon Bay)	<p>To construct and operate an open ocean marine salmon farm within a 2500 hectare area of Foveaux Strait, including 500 hectares of exclusive occupation of the CMA.</p> <p>The Project comprises four separate smaller marine farms each comprising two blocks of ten circular net pens, and five anchored barges functioning 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.</p> <p>The Project will involve activities such as:</p> <ol style="list-style-type: none"> placing net pens, moorings and mooring lines, anchors, navigational aids and lights in the CMA disturbing (including by excavating or drilling) and fixing structures to the seabed 	<p>The project is eligible for referral under section 18(3)(a-d) as:</p> <ul style="list-style-type: none"> it does not include any prohibited activities it does not include activities on land returned under a Treaty settlement it does not include activities in a customary marine title area [or a protected customary rights area] under the Marine and Coastal Area (Takutai Moana) Act 2011. 	<p>Economic benefits for people or industries affected by COVID-19 (19(a))</p> <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 FTE jobs associated with marine farming and processing once the farm reaches full production. <p>Economic costs for people or industries affected by COVID-19 (19(a))</p> <ul style="list-style-type: none"> N/A <p>Effect on the social and cultural well-being of current and future generations (19(b))</p> <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 Stewart Island/Rakiura residents provide more consistent year-round employment than other industries sustain the population and increase community participation in Stewart Island/Rakiura and Bluff communities provide opportunities to build an economic base and provide for food security, economic development and employment for iwi/Māori. <p>Is the Project likely to progress faster by using this Act? (19(c))</p> <p>The applicant considers that the FTCA will allow the Project to progress</p>	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>Section 23(5) matters</p> <p>Insufficient information (23(5)(a))</p> <p>The applicant has confirmed that they have sufficiently detailed information to lodge comprehensive resource consent applications with the EPA without undue delay should the Project be referred. Environment Southland has confirmed that the additional technical assessments sought under section 92 of the RMA in relation to the RMA application have been completed except for a cultural impact assessment which is currently in progress.</p> <p>We are satisfied that there is sufficient information to determine that the Project meets the FTCA purpose of urgently creating employment (section 18(2) and section 23(5)(a)).</p> <p>More appropriate to go through standard RMA process (23(5)(b))</p> <p>The Project is for a large-scale (approximately 2500 hectares) open ocean marine farm with a yield of approximately 16,000 tonnes of salmon at full production.</p> <p>Open ocean marine farming is a new, untested type of aquaculture in New Zealand. To date, only one⁴ other open ocean aquaculture application has been accepted as a complete application before being publicly notified. A hearing is currently in progress and no decision is available. Other recent resource consent applications for marine aquaculture processed under the RMA have been notified. These applications have received submissions from the</p>	<p>Decline Project Referral</p> <p>The Project does not contain any ineligible activities under section 18(3). It meets section 18(2) in part as it will urgently promote employment and investment certainty. However, we are not confident that the Project will promote sustainable management of natural and physical resources and therefore will not help achieve the purpose of the FTCA in full.</p> <p>We consider that it is more appropriate for the Project to go through standard processes under the RMA due to the Project's scale, location and complexity.</p> <p>We consider that there is sufficient reason to decline to refer the application under sections 23(1), 23(2), 23 (5)(b) of the FTCA.</p> <p>We recommend that you decline to refer the Project for the following reasons:</p> <ol style="list-style-type: none"> although the Project meets part of the referral criteria in section 18 including some aspects of the FTCA's purpose because it will help to urgently promote employment, we do not consider that you can be satisfied that the Project will promote sustainable management of natural and physical resources and therefore help to achieve the FTCA's purpose it is more appropriate for the Project to be considered under the Resource Management Act 1991 (section 23 (5) (b) of the FTCA) due to its scale, location and complexity. <p>Alternative Option – Accept Project Referral</p> <p>Notwithstanding the above, if you do not agree with our recommendation and are satisfied that the Project does meet the FTCA's purpose you could accept the application under section 24 of the FTCA and refer all of the Project to a panel for the following reasons:</p> <ul style="list-style-type: none"> it will have positive effects on social well-being by providing opportunities for year-round employment that will assist in sustaining the Stewart Island/Rakiura and Bluff communities it has the potential to generate approximately 50-180 direct FTE jobs in years 1-5 of the Project associated with farm construction, monitoring, farm management, harvesting and processing

⁴ This application is known as Blue Endeavour (U190438) and was lodged by New Zealand King Salmon to establish and operate two new salmon farms within a 1000 hectare site located 5 kilometres north of Cape Lambert, in northern Marlborough.

	<p>c. occupying the common marine and coastal area with a marine farm and associated moored vessels</p> <p>d. aquaculture farming in the CMA, including:</p> <ul style="list-style-type: none"> i. introduction of exotic fauna ii. deposition of material in or on the seabed iii. discharges of water and contaminants to water <p>e. any other activities that are -</p> <ul style="list-style-type: none"> i. associated with the activities described in 'a' to 'd' ii. within the Project scope described in paragraph 4. 		<p>approximately 12 to 24 months faster than under standard RMA processes, due to the likelihood of notification and appeals under standard processes.</p> <p>We are satisfied that technical reports to support a resource consent application can be completed in a timely way and will not unduly delay Project delivery.</p> <p>Will the Project result in a public benefit? (19(d))</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 FTE jobs in years 1-5 of the Project generating up to 500 FTE jobs over 10 years at full production assisting in sustaining the Stewart Island/Rakiura and Bluff communities by providing more ongoing employment. <p>Potential to have significant adverse environmental effects, including greenhouse gas emissions (19(e))</p> <p>The Project has the potential for adverse environmental effects on:</p> <ul style="list-style-type: none"> natural character of coastal terrestrial, coastal interface and coastal marine landscapes water column (from dissolved oxygen, carbon dioxide and nutrients) aquatic ecosystems, including seabed and benthic communities underlying the farms marine mammals and sharks native fish species shellfish avifauna coastal access and navigation. <p>We consider the following have the potential for the most significant effects:</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 net entanglement of threatened and at-risk species including: hoiho/yellow- 	<p>s 9(2)(f)(ii), s 9(2)(g)(i)</p>	<p>Department of Conservation, iwi authorities, environmental groups, business interests and organisations, fishing industry and recreational groups, residents' associations, Maritime New Zealand and the general public. Hearings have been relatively lengthy and involved extensive cross-examination of expert witnesses.</p> <p>The Project location is sensitive, particularly being between 2-6 kilometres from the northern coast of Stewart Island/Rakiura, and has the potential for adverse effects including on the natural character of the coast and coastal landscapes and for adverse effects on significant habitats of indigenous fauna. In addition, the Project's environmental effects are uncertain due to the proposed adaptive management approach whereby operating practices are monitored and modified throughout the life of the Project to remedy and mitigate adverse effects.</p> <p>Timeframes for decision-making under the FTCA are shorter than those under the RMA (maximum timeframe for a panel to make a decision after receiving comments being 50 working days compared to a 90 working day timeframe under the RMA). Given the Project complexity, it could be difficult to make a robust decision in this timeframe particularly with more limited opportunities for hearing of expert evidence and questioning of experts by the panel.</p> <p>On balance we consider that it is more appropriate to assess the Project under the RMA given the proposed area of occupation of the CMA, amount of infrastructure, quantity of salmon production and feed, the proposed operational and adaptive management approach, and the location being 2km at its closest point from Stewart Island/Rakiura which has significant natural values. The RMA process enables, opportunities for public involvement, greater timeframes for considering complex issues, and hearings involving full cross examination of</p>	<ul style="list-style-type: none"> it has the potential to generate up to 500 FTE jobs associated with marine farming and processing once the farm reaches full production it will provide opportunities to build an economic base and provide for food security, economic development and employment for local iwi/Māori. <p>If you decide to refer the Project you could respond to issues raised in comments as follows:</p> <ul style="list-style-type: none"> s 9(2)(f)(ii), s 9(2)(g)(i) <p>• support Environment Southland's recommendation that you agree to require the applicant to include, as part of any resource consent application lodged with the EPA, the technical assessments provided with the RMA application for the same Project, and any associated peer reviews undertaken by the council</p> <p>• agree with Maritime New Zealand's recommendation to request the applicant provide a navigation assessment with any application to the EPA</p> <p>• agree that a panel is required to invite the Southland regional harbourmaster to comment on a resource consent application</p> <p>• agree to require a panel to invite nominated Papatipu Rūnanga and Te Ao Mārama Incorporated to comment on a resource consent application, as requested by Te Rūnanga o Ngāi Tahu.</p> <p>If you decide to refer the Project, we recommend that you do not place any restrictions on the Project. We recommend that you impose timeframes of 90 days for panel consideration of the Project once comments are received. This would enable a panel to consider the consent application more comprehensively given the application scale and complexity.</p> <p>We have considered whether to recommend limiting the Project referral to specific stages or limiting the Project scale in terms of pen numbers or production capacity. We acknowledge that a staged consent, with reviews to assess environmental effects and the effectiveness of mitigation measures, may be an appropriate response to managing uncertainty associated with the environmental effects of open ocean salmon farming particularly as it's a new form of aquaculture within New Zealand. However, it is difficult to identify an appropriate staging strategy without assessing the application's merits. Therefore, we consider it more appropriate for a panel to consider the whole application scope and potential Project staging as part of a merit assessment. We recommend that the applicant is required to provide further information regarding Project staging options.</p>
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		<p>eyed penguin, seabirds including Tawaki and the Foveaux Strait shag</p> <ul style="list-style-type: none"> • effect on habitat for various marine mammals notably bottlenose dolphins, southern right whale, New Zealand sea lion • access to parts of the CMA 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; oysters; marine mammals; seabirds; navigational risk; disease risk; biosecurity; seabirds; sharks and wild fish. Some of these assessments have been peer reviewed by specialists engaged by Environment Southland as part of the RMA application.</p> <p>On balance, we consider that the Project has the potential for significant adverse effects and we are not confident that the FTCA purpose of urgently creating employment and investment certainty while promoting the sustainable management of natural and physical resources can be achieved. In reaching this conclusion we have adopted a precautionary approach due to the application complexity, sensitivity of the natural environment and the uncertainty of environmental effects due to the lack of precedence with this model of commercial aquaculture. A precautionary approach is consistent with Policy 3 (1) of the New Zealand Coastal Policy Statement to: "Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse" which is also a matter you may consider under section 23(5)(c) of the FTCA.</p> <p>If you decide to refer the Project, the technical information and peer review submitted with the RMA application should be required to be included in the lodged consent applications.</p> <p>Other relevant matters (19(f))</p> <p>A resource consent application for this Project was lodged with Environment Southland in December 2019 and is on</p>	<p>Southland Regional Council</p> <p>Environment Southland supported Project referral in principle and noted that:</p> <ul style="list-style-type: none"> • aquaculture has the potential to make a significant economic contribution to offsetting the impacts from COVID-19 particularly given the signalled closure of the Tiwai Point Aluminium Smelter in 2025 • aquaculture is identified as an enabler for increasing the population, diversification, and resilience of the Southland economy in the Southland Regional Development Strategy • the Project is aligned with the Government's Aquaculture Strategy • Environment Southland has commenced technical peer reviews of the RMA consent application and considers the project has the potential to result in adverse effects related to benthic effects, marine mammals and seabirds • technical reviews of the applicant's assessments on sharks, wild fish, and landscape and natural character values, and a full assessment against the relevant statutory planning documents have not been completed • there is no known environmental regulatory compliance history in the region for the applicant • the applicant has provided all the requested information for the RMA resource consent application for the same Project except for a Cultural Impact Assessment (in progress) • public notification of the RMA application is the most probable outcome due to effects <p>Environment Southland also identified key issues as part of a review of the Regional Coastal Plan 2013 (RCP).</p> <p>Environment Southland advised that the following technical assessments are normally required for a project of this nature:</p> <ul style="list-style-type: none"> • environmental effects assessment • engineering report • water column effects report • seabed effects report • oyster effects report • biosecurity effects report • shark effects report • marine mammals effects report • seabird effects report • wild fish effects report • landscape and character effects assessment report • navigation risk assessment • cultural impact assessment 	<p>experts (if appealed to the Environment Court).</p> <p>If you decide to refer the Project, a panel is required to invite comments from parties listed in Schedule 6, Clause 17(6) of the FTCA which includes only some of the parties who typically submit on aquaculture applications under the RMA. There is a risk that environmental groups and the general public would expect to be able to participate in the consent application process via a submission and/or hearing. This risk is compounded further as the Project seeks exclusive occupation of 500 hectares of the CMA, rather than just the physical space occupied by structures, which may be inconsistent with public access expectations.</p> <p>Should you decide to refer the Project, we recommend that you invite appropriate national and local environmental, industry and other groups or agencies to comment. This would address some, but not all of the risks, associated with expectations of participation by public and environmental groups.</p> <p>If you decide to refer the Project you could also extend the timeframes for a panel to make a decision after the date specified for receiving comments from the maximum 50 days to 90 days. This would enable a panel to hold a hearing and to obtain information from a special and/or technical adviser if required. This would also align with RMA timeframes for notified resource consent applications which require that a hearing is completed within 75 working days from the closing date of submissions and that a decision is released within 15 days after the end of a hearing.</p> <p>Inconsistency with a national policy statement (23(5)(c))</p> <p>Key NZCPS policies include; 3 (precautionary approach), 8 (aquaculture), 11 (indigenous biodiversity), 13 (preserving natural character) and 15 (natural features</p>	<p>Consent applications affecting navigation are required to be referred to Maritime New Zealand under section 89A of the RMA.</p> <p>We note that copies of consent applications for coastal permits for aquaculture are required to be given to the Director-General of the Ministry for Primary Industries under section 15 of the FTCA. A panel must forward a copy of a consent application lodged with the EPA, information or reports obtained and copies of submissions received to the chief executive of the Ministry of Primary Industries under section 107F(3) of the RMA. Given these statutory requirements s 9(2)(f)(ii), s 9(2)(g)(i) we consider it appropriate to recommend that a panel invite comments from the Director-General of the Ministry for Primary Industries.</p> <p>If you decide to refer the Project we recommend you require the applicants to submit the following information with any consent application lodged with the Environmental Protection Authority:</p> <ul style="list-style-type: none"> • engineering report outlining the proposed farm structures, mooring and anchor systems and demonstrating suitability to withstand the anticipated current and wave environment • water column effects report, including associated hydrodynamic modelling, assessing the effects of farm-derived nutrients on macroalgae and phytoplankton, effects on dissolved oxygen, and effects of submerged artificial lighting • seabed effects report, including associated modelling, assessing the effects of farm-associated deposition and seabed enrichment on benthic communities beneath and surrounding the farm • oyster effects report, assessing the effects on the abundance and disease risk to wild oysters present within Foveaux Strait • biosecurity effects report, assessing the biosecurity risks of the farm for the spread of marine pests and diseases, including an associated Biosecurity Management Plan • shark effects report, assessing the effects on sharks present within Foveaux Strait, including from potential entanglement • marine mammals' effects report, assessing the effects on marine mammals within Foveaux Strait including from habitat exclusion, disturbance and potential entanglement • seabird effects report, assessing the effects on seabirds within Foveaux Strait, including from habitat exclusion, changes to food supply, disturbance, and potential entanglement • penguin effects report, assessing the effects on penguins within Foveaux Strait, including from habitat exclusion, changes to food supply, disturbance, and potential entanglement • wild fish effects report, assessing the effects on wild fish, including from attraction to farms, and waste feed and other organic matter
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		<p>hold pending a further information request. The Department of Conservation has been involved in some pre-application discussions on this application.</p> <p>Other salmon farms have been established since the 1970s in Big Glory Bay, in Stewart Island/Rakiura. Sanford lodged an application with Environment Southland for Project South Open Ocean Marine Farm near Ruapuke Island at the south-east end of Foveaux Strait (Te Ara a Kiwa) in March 2020 which is currently on hold pending further information.</p> <p>The New Zealand Government 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 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 Ngāi Tahu Seafood processing plant at Bluff.</p>	<p>Te Runanga o Ngai Tahu (Te Rūnanga)</p> <p>Papatipu Rūnanga who have interests in Rakiura/Stewart Island are: Te Rūnanga o Awarua, Te Rūnanga o Oraka-Aparima, Te Rūnanga o Waihōpai, and Hokonui Rūnanga (collectively referred to as Kāi Tahu ki Murihiku).</p> <p>Te Rūnanga has discussed this project with environmental entity Te Ao Mārama Incorporated who is mandated to respond on behalf of Kāi Tahu ki Murihiku.</p> <p>Te Rūnanga is supportive of the proposal being processed under the FTCA.</p> <p>Te Rūnanga recommend that the Papatipu Rūnanga listed above are also invited to comment on the application.</p> <p>Maritime New Zealand</p> <p>The navigational issues created by the proposed aquaculture project are standard or well-known and are able to be dealt with during the life of the farms.</p> <p>Maritime NZ expects the navigational aspects will be discussed and reviewed by an expert panel, should the application progress through the fast-track process.</p> <p>Maritime NZ considers it is important that the local maritime authorities (Environment Southland and their Harbourmasters) are closely involved in the development of this Project and in consultation with Maritime NZ, ensure international and domestic mariners are kept abreast of changes to navigational hazards in the area.</p> <p>Southland Regional Harbourmaster</p> <p>The Southland regional harbourmaster has no navigational safety concerns with regards to the project application.</p> <p>All responses received by parties invited to comment are attached at Appendix 6.</p>	<p>and natural landscapes). The applicant provided further information regarding consistency with the NZCPS.</p> <p>We consider the Project's consistency with the NZCPS requires further testing in relation to policies relating to 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.</p> <p>Inconsistent with a Treaty settlement (23(5)(d))</p> <p>N/A</p> <p>Involves land needed for Treaty settlements (23(5)(e))</p> <p>N/A</p> <p>Applicant has poor regulatory compliance (23(5)(f))</p> <p>Environment Southland advised that the applicant has no issues with regulatory compliance.</p> <p>Insufficient time for the Project to be referred and considered before FTCA repealed (23(5)(g))</p> <p>N/A</p> <p>Other issues & risks:</p> <p>There is a risk that the Project is referred it may not meet the 'gateway tests⁵' in section 104D of the RMA for non-complying activities and may be declined.</p>	<ul style="list-style-type: none"> landscape and natural character effects assessment report, describing the landscape and natural character values present, and assessing the effects on landscape character, natural character and visual amenity navigation risk assessment, assessing the effects of the farm on navigation safety for vessels operating within Foveaux Strait public access assessment, assessing the effects of exclusive access to 500ha of the CMA on public access project staging options including the practicalities of an option to establish a reduced scale marine farm as an initial stage to test the environmental effects of the Project in the open ocean environment. <p>If you decide to refer the Project we recommend that you make a direction for the panel to invite comments from the following parties in addition to those listed in clause 17, Schedule 6:</p> <ul style="list-style-type: none"> the Minister for Oceans and Fisheries Te Rūnanga o Awarua Te Rūnanga o Oraka-Aparima Te Rūnanga o Waihōpai Te Runanga o Hokonui Rūnanga Biosecurity New Zealand Director-General of the Ministry for Primary Industries Maritime New Zealand Rakiura Marine Guardians Incorporated Rakiura Titi Islands Committee Rakiura Titi Islands Administering Body Southland Aquaculture Working Group Southland Conservation Board Southland Regional Development Agency Southland regional harbourmaster Stewart Island/Rakiura Community and Environment Trust Te Whaka o te Wera Mātaitai Committee Yellow-eyed Penguin Trust <p>We recommend that you provide the application and your notice of decisions to the parties listed above.</p>
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Schedule of Appendices and Attachments

Appendix 1 – Hananui Aquaculture project – Application form and additional information received

Appendix 2 – 2021-B-34 FTC#48 and 21-B- 0569 – Application for referred project under the COVID-Recovery Act - Stage 1 decisions on Hananui Aquaculture project application

Appendix 3 – Statutory framework for making decisions

Appendix 4 – Draft Notice of Decisions letter to Ngāi Tahu Seafood Resources Limited

Appendix 5 – Section 17 Report

Appendix 6 – Comments received from Ministers, Southland Regional Council, Te Rūnanga o Ngāi Tahu, Maritime New Zealand, Southland regional harbourmaster

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