



26 July 2017

## AQUACULTURE DECISION REPORT — PETER WHITELAW ARCHER, COASTAL PERMIT U160976, HALLAM COVE, TENNYSON INLET

### PURPOSE

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

### SUMMARY

2 I am satisfied the aquaculture activities proposed within the area of coastal permit U160976 will not have an undue adverse effect on:

- recreational fishing — for the reasons set out in this report and summarised in paragraph 46;
- customary fishing — for the reasons set out in this report and summarised in paragraph 69;
- commercial fishing — for the reasons set out in this report and summarised in paragraph 93.

### AQUACULTURE DECISION REQUEST DETAILS

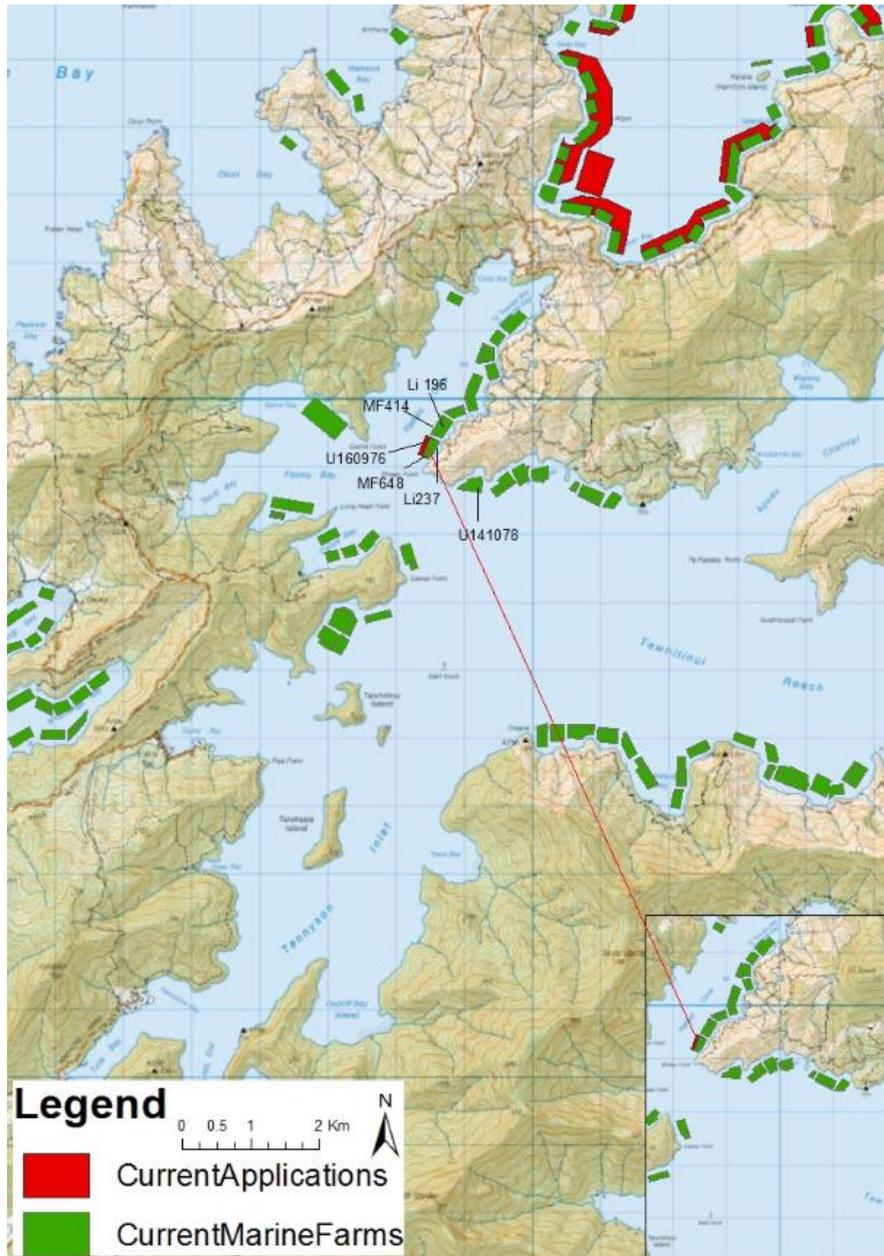
Regional Council:	Marlborough District Council (MDC)
Date of Request:	29 May 2017
Coastal Permit Applicant:	Peter Whitelaw Archer
Location of marine farm site:	Hallam Cove, Tennyson Inlet
Size of farm:	4.32 ha total area. 1.77 ha of new space, increasing marine farm licence 237 (Li 237)/marine farming permit 648 (MF 648) by 0.09 ha and relocating the farm 60 m seaward
Species to be farmed:	Green shell- mussels ( <i>Perna canaliculus</i> ), blue shell mussels ( <i>Mytilus edulis</i> ), scallops ( <i>Pecten novaezelandiae</i> ), flat oysters ( <i>Toistrea lutaria</i> ) and seaweed ( <i>Macrocystis pyrifera</i> , <i>Ecklonia radiata</i> , <i>Gracilaria</i> , <i>Pterocladia lucida</i> and <i>Undaria pinnatifida</i> ).
Farm structures:	Standard marine farm longlines and anchors with droppers

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

## Location

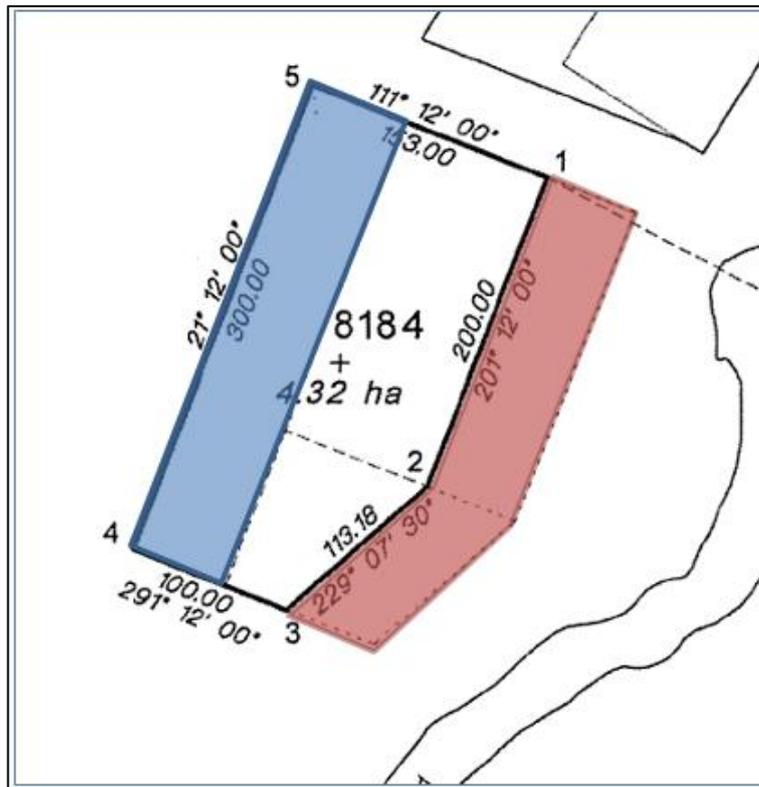
3 Coastal permit U160976 applies to an area of Hallam Cove, Tennyson Inlet (Map 1). Coastal permit U160976 covers an area of 1.77 ha, by moving Li 237/MF 648 seaward and extending it by 0.09 ha, for a proposed new complete area of 4.32 ha (Map 2).

4 Hallam Cove is within Fisheries Management Area 7 (FMA7) (Map 3). Aside from Li 237/MF 648 the closest existing farm to the area of coastal permit U160976 is the combined site of marine farm licence 196 (Li 196), marine farming permit 414 (MF 141) to the east and coastal permit U141078 around the headland to the south.



Map 1<sup>2</sup>: Location of the area authorised by coastal permit U160976 at Hallam Cove (MPI, 2017).

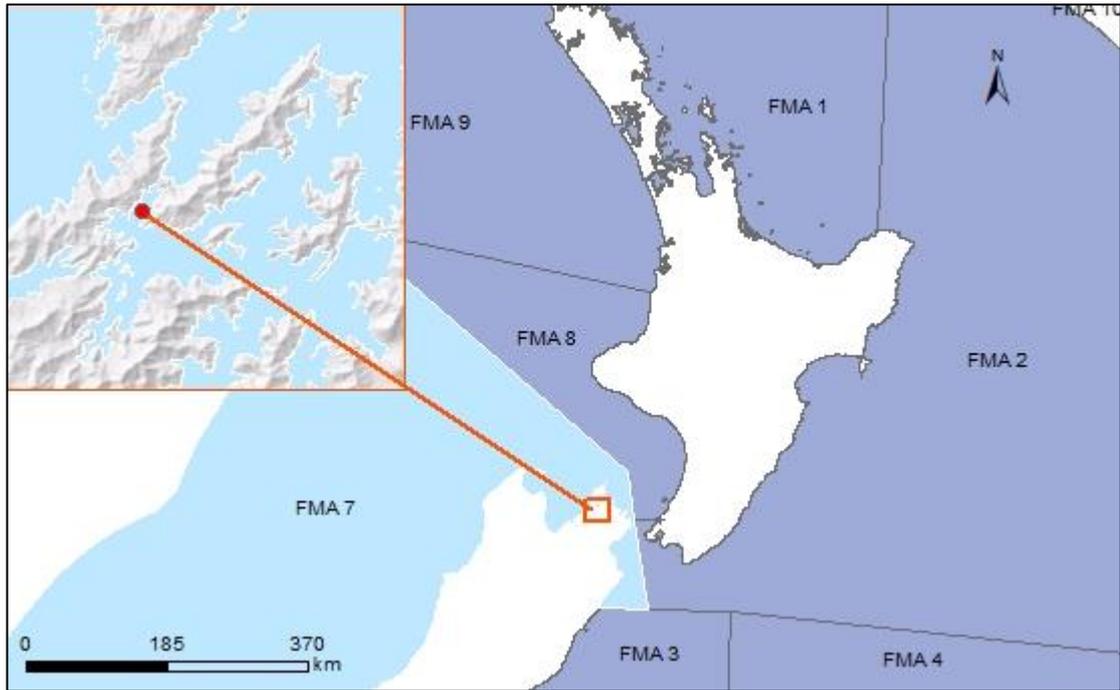
<sup>2</sup> Disclaimer: Maps 1-7 and all information accompanying it (the “Maps”) is intended to be used as a guide only, in conjunction with other data sources and methods, and should only be used for the purpose for which it was developed. The information shown in the Maps is based on a summary of data obtained from various sources. While all reasonable measures have been taken to ensure the accuracy of the Maps, MPI: (a) gives no warranty or



**Map 2: Site layout for coastal permit U160976<sup>3</sup>. The area shaded red is the area relinquished. Area shaded blue is the approximate new area proposed.**

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<sup>3</sup> Sourced from the MDC's decision on coastal permit application U160976.

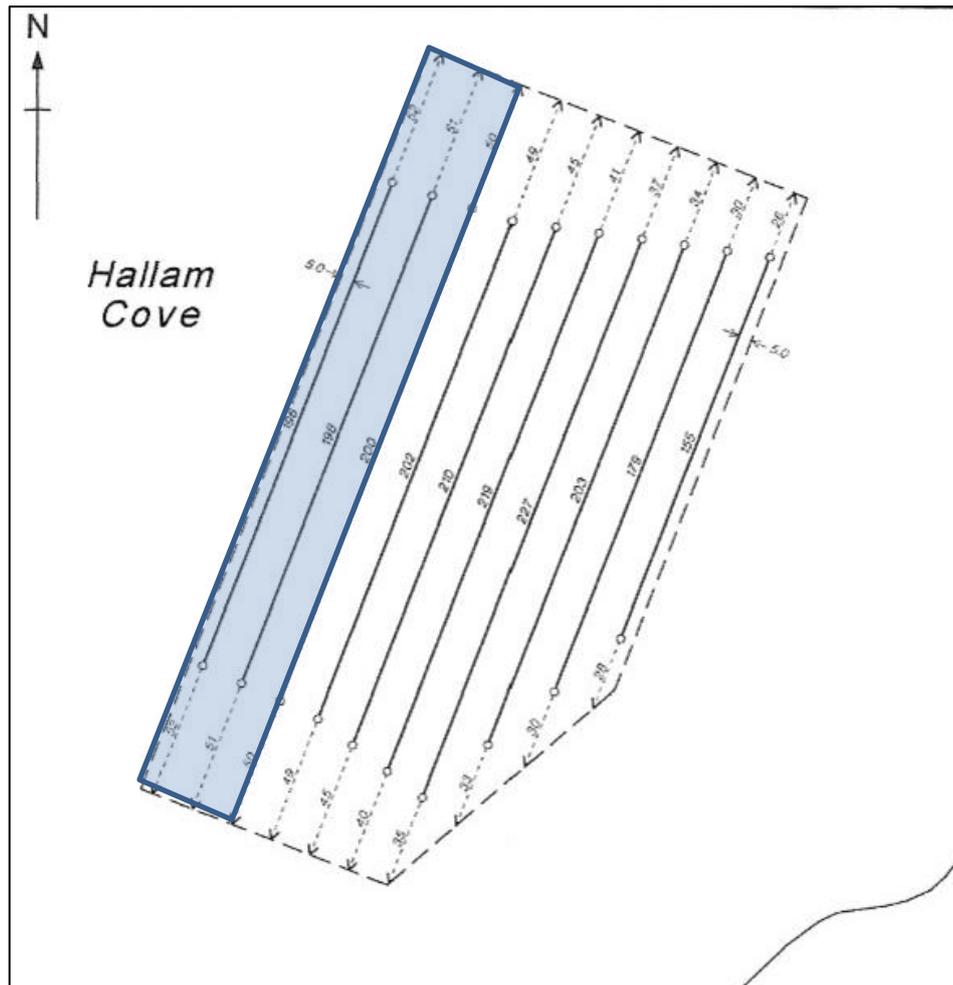


**Map 3: Location of the area of coastal permit U160976 (red circle) within FMA7.<sup>4</sup>**

5 The area of coastal permit U160976 is proposed to be around 100 m from shore at its closest point and ranges from 11-28 m deep. The Davidson (2016) site survey report showed the benthos is made up of relatively uniform silt and clay substrate (mud), with low variety of species, often low in abundance. Horse mussels and scallops were recorded, but were relatively uncommon and below the trigger levels set by DOC (1995) in its Guideline for Ecological Investigations of Proposed Marine Farm Areas.

### **Structures**

6 The area of coastal permit U160976 will contain 10 longlines ranging from 155-227 m in length (Figure 1).



**Figure 1: Structures diagram for coastal permit U160976. The area shaded blue is the approximate additional area to the existing farm area proposed.**

### ***Input from stakeholders***

7 MPI publicised the application for coastal permit U160976 on its website on 16<sup>th</sup> September 2016. This gave persons and organisations potentially affected by the proposed aquaculture activities an opportunity to provide information on their fishing activities at the coastal permit area.

8 The submission closing date for those notified via the website was 16 October 2016. MPI did not receive any submissions.

### **STATUTORY CONTEXT**

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

10 A ‘*determination*’ is a decision that I am satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing. A ‘*reservation*’ is a decision that I am not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing.

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

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

13 Section 186E(3) of the Fisheries Act<sup>5</sup> requires me, in making an aquaculture decision, to have regard to any:

- (a) information held by the Ministry for Primary Industries; and
- (b) information supplied, or submissions made, to the Director-General under section 186D(1) or (3) by:
  - i. an applicant for or holder of the coastal permit;
  - ii. any fisher whose interests may be affected;
  - iii. persons or organisations that the Director-General considers represent the classes of persons who have customary, commercial or recreational fishing interests that may be affected by the granting of the coastal permit or change to, or cancellation of, the conditions of the coastal permit; and
- (c) information that is forwarded by the regional council; and
- (d) any other information that the Director-General has requested and obtained.

14 Section 186F of the Fisheries Act specifies an order of processing that must be followed in making aquaculture decisions. But section 186F(5) allows aquaculture decisions to be made in a different order from that specified if I am satisfied that in making an aquaculture decision out of order it will not have an adverse effect on any other aquaculture decision that has been requested. I am so satisfied in this case.

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

- (a) the location of the area that the coastal permit relates to in relation to areas in which fishing is carried out;
- (b) the likely effect of the aquaculture activities in the area that the coastal permit relates to on fishing of any fishery, including the proportion of any fishery likely to become affected;

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<sup>5</sup> Section 186E(3)(a) of the Fisheries Act refers to the ‘Ministry of Fisheries’ which is now the Ministry for Primary Industries. Section 186E(3)(b) and (d) refers to the ‘chief executive’ who is now the director-general.

- (c) the degree to which the aquaculture activities in the area that the coastal permit relates to will lead to the exclusion of fishing;
- (d) the extent to which fishing for a species in the area that the coastal permit relates to can be carried out in other areas;
- (e) the extent to which the occupation of the coastal marine area authorised by the coastal permit will increase the cost of fishing; and
- (f) the cumulative effect on fishing of any authorised aquaculture activities, including any structures authorised before the introduction of any relevant stock to the quota management system.

16 Section 186GB(2) of the Fisheries Act specifies that if a pre-request aquaculture agreement has been registered under section 186ZH in relation to the areas that the coastal permit relates to, I must not have regard to the undue adverse effects on commercial fishing in respect of any stocks covered by the pre-request aquaculture agreement when having regard to the matters specified in section 186GB(1). No pre-request aquaculture agreements have been registered in relation to coastal permit U160976.

17 Section 186GB(1)(b) requires an assessment of the likely effects of the aquaculture activities on fishing of any fishery including the proportion of any fishery likely to be affected. “Fishery” is not defined either in section 186 or elsewhere in the Fisheries Act. However, “stock” is defined in section 2 to mean any fish, aquatic life, or seaweed of one or more species that are treated as a unit for the purposes of fisheries management. Parts (3) and (4) of the Fisheries Act focus on “stocks” for the purpose of setting and allocating Total Allowable Catches and managing species within the quota management system (**QMS**). Sections 186GB(1)(f) and (2) also refer to “stock” with specific regard to adverse effects on commercial fishing.

18 For the purpose of my decision under section 186E, I consider a commercial fishery is a fish stock delineated by a fisheries management area (**FMA**) or quota management area (**QMA**). However, because recreational and customary fishers are not bound to restrict their fishing activity by FMA or QMA, I consider the relevant customary and recreational fishery are as I have described in the assessment below in my consideration of section 186GB(1)(a)—*Location of the coastal areas relative to fishing area*.

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

20 The *Fisheries (South Island Customary Fishing) Regulations 1999* (**the South Island Regulations**) define customary food gathering as the traditional rights confirmed by the Treaty of Waitangi and the *Treaty of Waitangi (Fisheries Claims) Settlement Act 1992*, being the taking of fish, aquatic life, or seaweed or managing of fisheries resources, for a purpose authorised by Tangata Tiaki/Kaitiaki, including koha, to the extent that such purpose is consistent with tikanga Māori and is neither commercial in any way nor for pecuniary gain or trade.

21 The South Island Regulations and regulation 50 and 51 of the *Fisheries (Amateur Fishing) Regulations 2013* (**the Amateur Regulations**) provide for Tangata Tiaki/Kaitiaki to determine the

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

## **ASSESSMENT**

22 When making my aquaculture decision under section 186E of the Fisheries Act, I have considered all relevant information before me. The following sections of this paper provide an assessment of the effects of the proposed aquaculture activities on recreational, customary and commercial fishing against the matters set out above.

23 For the purpose of my assessment, customary fishing differs from recreational fishing if it is undertaken outside of the recreational limits provided in the Amateur Regulations and is instead authorised by a customary authorisation.

24 This assessment relates to the 1.77 ha of new marine farming space authorised by coastal permit U160976.

### ***Recreational fishing***

#### ***Location of the coastal permit area relative to fishing areas***

25 I consider the area of coastal permit U160976 is located where there is a relatively small amount of recreational fishing, predominantly by rod/line methods from a private boat, set netting, longlining and a small amount of diving and potting. I consider that snapper, spotty, kahawai, yellow-eyed mullet and flatfish are the main species caught and/or targeted.

26 Available information on recreational fishing activity in Hallam Cove and the inner Tennyson Inlet comprises:

- information provided in submissions, if any;
- information provided in the coastal permit application;
- fishing surveys and Amateur Charter Vessel (ACV) reports; and
- MPI information (eg, institutional knowledge).

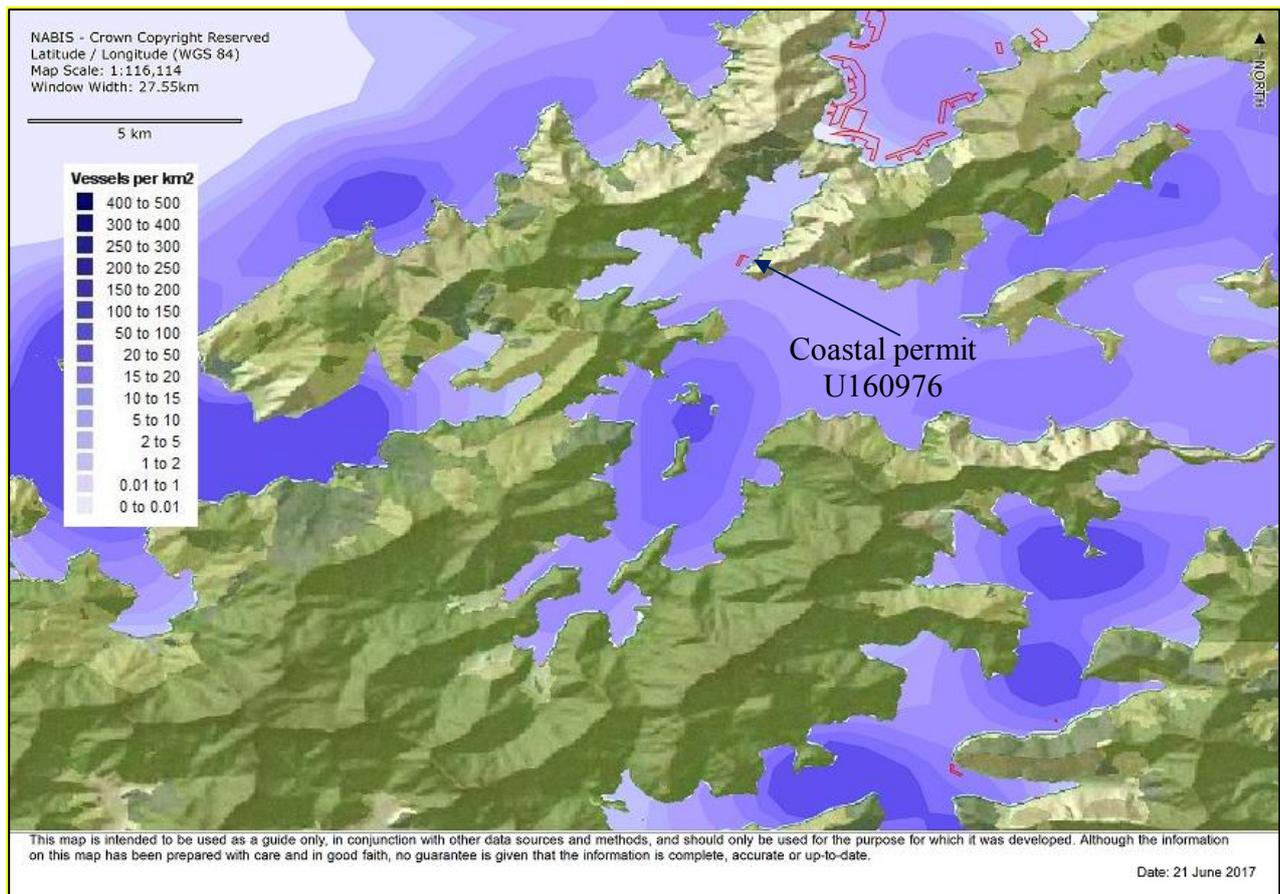
27 No submissions on the area of coastal permit U160976 were received from recreational fishers. However, previous submissions<sup>6</sup> received on marine farm applications in Hallam Cove suggest the wider area of inner Tennyson Inlet is important for recreational fishing and receives a lot of fishing effort.

28 No ACV points have been reported in Hallam Cove but a number have been reported in Tennyson Inlet and Tawhitinui Reach.

29 Aerial survey results from the most recent recreational fishing survey of the Marlborough Sounds (in 2006) (Davey *et. al.*, 2008) suggest there is a relatively large amount of recreational fishing at the area of coastal permit U160976. 6.4% of 2006 diary recorded fishing trips occurred in the survey zone of Tennyson Inlet, containing Hallam Cove.

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<sup>6</sup> Information in submissions to the Area-by-Area consultation process for Tennyson Inlet and more recent marine farm applications in Hallam Cove has been used in preparing this decision paper.



**Map 4. Aerial survey results from 2006 of recreational fishing intensity (Davey *et al*, 2008).**

30 The recreational fishing survey identifies methods used and species targeted and caught within zones in the Marlborough Sounds. Several submissions on previous marine farm applications in Tennyson Inlet and pertaining to Hallam Cove as part of the wider Marlborough Sounds also give an idea of the fishing activity that may occur in the area of coastal permit U160976. Table 1 below summarises my assessment of the main methods used and species caught and targeted in the area of coastal permit U160976 based on the recreational fishing survey, submissions, the site survey (Davidson, 2016) and other sources.

31 As shown, I consider that stationary and mobile rod/line methods, set netting, longlining, and a small amount of diving and potting could be used and that snapper, spotty, kahawai, yellow-eyed mullet and flatfish are the main species targeted and/or caught. I consider a negligible amount of recreational fishing occurs at the coastal permit area given it is offshore of existing marine farm structures, does not have particularly unique or productive habitat and is a small area relative to the wider area of Tennyson Inlet.

**Table 1: Recreational fishing methods used, and species caught and targeted at the area of coastal permit U160976 based on the available information.**

	Source of Information			
	Davey <i>et al.</i> (2008) results for the survey zone encompassing Hallam Cove	ACV data for the location that includes Hallam Cove	Other information	My assessment
<b>Methods used</b>	Rod/line from private boat (79% of trips), longline private (11%), drag netting (2%), hand gathering, potting and diving (<2% of trips)	Hand line, anchored and drift fishing, and drag netting are the most commonly used methods	The combination of majority or mud and relatively flat seabed is suitable for most of the methods identified as occurring in the survey zone containing Hallam Cove by Davey <i>et al.</i> (2008)  A very small number of species taken by dredging were seen by Davidson (2016)	Stationary and mobile rod/line methods, set netting, longlining and a small amount diving and potting may be used at the site  Shore-based fishing (eg, by hand gathering, rod/line or drag netting) is not possible in the coastal permit area because it is offshore of existing marine farm structures  Drift fishing in the coastal permit area is likely to already be excluded by existing marine farms
<b>Species caught</b>	Blue cod (240), snapper (77), spotty (70), mussel (50), kahawai (30), yellow-eyed mullet (24), gurnard (22), jack mackarel (21), oyster (15), sea perch (10) <sup>7</sup>	Scallops, blue cod, sea perch, snapper and gurnard are listed in the order of catch numbers	A very small number of scallops were seen by Davidson (2016)  Blue cod is most commonly found over cobble/hard substrate that is not at the coastal permit area	Snapper, spotty, kahawai and yelloweyed- mullet are likely the most commonly caught species in the coastal permit area
<b>Species targeted</b>	Snapper (119), flounder (84), blue cod (34), scallops (17), hapuku (14), kahawai (4), yellow-eyed mullet (2), sole (2), oyster (2), salmon and kingfish (1) <sup>8</sup>	Blue cod, snapper, scallops and sea perch are listed in the most order of commonly targeted	Blue cod is most commonly found over cobble/hard substrate that is not at the coastal permit area  A very small number of scallops were seen by Davidson (2016)  Depths at the site are shallower than those typically fished for hapuku	Snapper, flatfish and kahawai are likely the most commonly targeted species in the coastal permit area

<sup>7</sup> The number of species caught and kept at Tennyson Inlet, the survey zone covering coastal permit area U160976, over the 12 month survey period

<sup>8</sup> Species targeted for n=2784 trips (more than one species may be targeted)

### *Exclusion of fishing*

32 I consider the aquaculture activities proposed for the area of coastal permit U160976 will exclude some of the recreational fishing methods that may be used in the area. However, I consider the exclusion effects on recreational fishing are likely to be small.

33 Of the recreational fishing likely to occur in the area of coastal permit U160976 it is likely that drift fishing, trolling, longlining and set netting would be excluded. Anecdotal information from recreational fishers<sup>9</sup> suggests that spaces between longlines of mussel farms in the Marlborough Sounds are too narrow for longlining, set netting and trolling without risk of entanglement. I also consider that drift fishing is unlikely to occur within marine farms because of risk of entanglement.

34 However, it is common for fishers to fish by rod/line within mussel farms so it is possible anchored fishing could continue between the proposed structures. I do not consider that diving or potting would be excluded from the site. Furthermore, I note that coastal permit U160976 would allow for Li 237/MF 648 to be further offshore, which would decrease exclusion effects on methods which are often used near the shore (eg, drift fishing).

### *Availability of other fishing areas*

35 I consider there are other areas available for recreational fishing in Hallam Cove, Tennyson Inlet and the wider Marlborough Sounds.

36 The Marlborough Sounds region is subject to area closures and various species and method restrictions, particularly for set netting and longlining.<sup>10</sup> These restrictions limit the availability of alternative recreational fishing areas outside of Hallam Cove. However, I consider alternative areas in Hallam Cove and elsewhere in the Marlborough Sounds could absorb fishing by most fishers who fish the area of coastal permit U160976 because:

- the muddy substrate beneath the site is widespread in Tennyson Inlet and no information suggests the site offers fishing opportunities (eg, habitat, species, methods) specific to it;
- the same methods as those used at the site could be used elsewhere in Hallam Cove and some other parts of the Marlborough Sounds;
- the site is only a small area and the amount of fishing that would occur there is likely small also; and
- there are sufficient alternative areas, particularly for rod/line fishing which can occur amongst mussel farms.

### *Increased cost of fishing*

37 I consider the aquaculture activities proposed for the area of coastal permit U160976 will result in a minimal, if any, increase in the cost of recreational fishing.

38 Based on the available information, I consider there is a high likelihood that any recreational fishing excluded from the site could be carried out nearby with minimal additional cost, or that most species targeted at the site can be taken using alternative fishing methods.

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<sup>9</sup> FMA7 Recreational Fishing Forum, 27 May 2013.

<sup>10</sup> The Amateur Regulations, *Marine Reserves Act 1971* and the *Submarine Cables and Pipelines Protection Act 1996*.

### *Likely effect on fishing*

39 I consider the likely effect on recreational fishing from the aquaculture activities proposed in the area of coastal permit U160976 will be negligible.

40 There is little quantitative data available on recreational catch taken from the coastal permit area, Hallam Cove or the Marlborough Sounds. Recreational fishers are not required to report catch or fishing locations. MPI is therefore unable to estimate an average annual recreational catch or proportion of recreational catch likely to be affected by the proposed aquaculture activities. Rather, MPI can only make an assessment of the effect of the proposed aquaculture activities on recreational fishing based on qualitative information.

41 Overall, I consider the effect on recreational fishing from the proposed aquaculture activities will be small because:

- not all recreational fishing methods would be excluded from the site;
- the coastal permit would only increase the area of the existing marine farm by 2%;
- the coastal permit would move the existing marine farm seaward and improve fishing opportunities inshore; and
- alternative areas within Hallam Cove and the wider Marlborough Sounds could absorb the recreational fishing displaced from the site.

### *Cumulative effects*

42 I consider effects from the aquaculture activities proposed for the area of coastal permit U160976, added to the effects of existing aquaculture in the Marlborough Sounds, will not have an undue adverse effect on recreational fishing.

43 There is no quantitative catch data available to assess the cumulative effects of authorised aquaculture on recreational fishing catch. As noted, recreational fishers are not required to report catch or fishing locations. MPI can therefore only make an assessment about cumulative effects on recreational fishing based on the amount of aquaculture already authorised in the relevant recreational fishery and the likely importance of the coastal permit area for fishing.

44 I acknowledge there is already a large amount (approximately 3,700 ha) of authorised aquaculture space in the Marlborough Sounds. Approximately 42 ha of this authorised aquaculture space is in Hallam Cove. However, overall I consider the authorised space has not had an undue adverse effect on recreational fishing. This is because some fishing (eg, anchored rod and line fishing) can occur within the existing farms and not all the authorised aquaculture space is located in popular fishing areas.

45 As noted, I consider the adverse effects of the area of coastal permit U160976 on recreational fishing will be small. Subsequently, taking into account the effects of the existing authorised aquaculture areas, I consider the additional effects from the coastal permit area will not cause the cumulative effect on recreational fishing to become undue.

### *Conclusion on effects on recreational fishing*

46 I am satisfied the aquaculture activities proposed within the area of coastal permit U160976 will not have an undue adverse effect on recreational fishing because:

- a relatively small amount of recreational fishing occurs in the area;
- anchored rod/line fishing, potting and diving could still occur in the area;

- there would be other recreational fishing areas available inshore of the site and elsewhere in Hallam Cove and the wider Marlborough Sounds;
- occupation of the coastal permit area will result in a minimal, if any, increase in the cost of recreational fishing; and
- the additional adverse effect of the coastal permit area on recreational fishing is only small and will not cause the cumulative effect on recreational fishing to become undue.

## **Customary fishing**

### *The location of the coastal permit area relative to fishing areas*

47 I consider the area of coastal permit U160976 is located where there is likely to be little, if any, customary fishing. There may be a small amount of customary fishing by rod/lines from boats, diving and long lining. Species targeted and caught may be snapper and kahawai.

48 I consider that at least the eight iwi at the top of the South Island may have customary fishing interests in the coastal permit area.<sup>11</sup> While there are no existing customary management areas in the Marlborough Sounds (eg, taiapure-local fishery or mātaimai reserves), the eight iwi have jointly notified their Tangata Tiaki/Kaitiaki for an area/rohe moana that encompasses the new coastal permit area. Although, I note the notification is in dispute.<sup>12</sup>

49 Available information on customary fishing is primarily qualitative information from submissions and quantitative catch information from customary authorisations. There is limited information on customary catch at the scale of small marine farms. Fishing locations for customary authorisations only need to be reported at the FMA or QMA scale, although more specific sites are sometimes identified. Fishing methods are not reported. Furthermore, customary authorisations issued under regulations 50 and 51 of the Amateur Regulations do not need to be routinely reported.

50 There are no submissions from iwi about the importance of Hallam Cove for customary fishing. However, old submissions from Ngāti Toa Rangatira Manawhenua Ki Te Tau Ihu Trust, and Te Runanga O Ngāti Kuia Trust suggest that Tennyson Inlet and the wider Marlborough Sounds are important for customary fishing.

51 From January 2009 to April 2016 no customary authorisations with site-specific information were issued for Hallam Cove. Customary authorisations for the wider Marlborough Sounds that did not rule out take from Hallam Cove were issued for collection of a large number of species.

52 Table 2 below summarises my assessment of the main methods used and species caught and targeted by customary fishers in the area of coastal permit U160976. The information is based on submissions, customary authorisations, the site survey (Davidson, 2016) and other information. As shown, I consider it likely that rod/line fishing from boat, diving and longlining

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<sup>11</sup> The eight iwi, collectively known as Te Tau Ihu o Te Waka o Maui (**Te Tau Ihu Iwi**), include those defined as tangata whenua in regulation 2 of the Fisheries (South Island Customary Fishing) Regulations 1999: the whānau, hapu or iwi that hold manawhenua manamoana over a particular area and are represented by Ngāti Apa Ki Te Waipounamu Trust; or Ngāti Koata No Rangitoto Ki Te Tonga Trust; or Ngāti Rarua Iwi Trust; or Ngāti Tama Manawhenua Ki Te Tau Ihu Trust; or Ngāti Toa Rangatira Manawhenua Ki Te Tau Ihu Trust; or Te Atiawa Manawhenua Ki Te Tau Ihu Trust; or Te Runanga A Rangitane o Wairau; or Te Runanga O Ngāti Kuia Trust.

<sup>12</sup> Because the notification is in dispute, customary authorisations for the top of the South Island are issued under regulations 50 and 51 of the Amateur Regulations.

are the methods that may be used at the site and that snapper and kahawai are the main species targeted or caught.

53 Table 2: Customary fishing methods used and species caught or targeted at the area of coastal permit U160976 based on submissions, customary authorisations, the benthic survey of the site and other information.

	Source of information			My assessment
	Submissions	Customary authorisations	Other information	
<b>Methods used</b>	N/A	N/A	<p>A small number of species taken by dredging were observed at the coastal permit area by NIWA 2001, 2006 prior to there being a working farm in the area</p> <p>Recreational fishers commonly use stationary and mobile rod/line methods and longlining so customary fishers may also use these methods</p>	<p>Rod/line from boat and diving are the most commonly used methods at the site for recreational fishing and are considered the most likely methods for species listed in customary authorisations. Some longlining may also occur</p>
<b>Species caught or targeted (most common species first)</b>	N/A	<p>Scallops, oysters, paua, rig, kahawai, blue cod, snapper, rock lobster, kina, butterfish, flatfish, blue moki, green-lipped mussels, hapuku, red cod, school shark, spiny dogfish, elephant fish, hapuku, smooth skate, tuatua, gurnard and yelloweyed- mullet, trumpeter, toheroa, porphyra, smooth skate</p>	<p>It is unlikely that paua, rock lobster, kina, butterfish, blue moki or green-lipped mussels are found over the reef and algae-free substrate at the coastal permit area</p> <p>Blue cod is most commonly found over cobble/hard substrate that is not at the coastal permit area</p> <p>A small number of scallops were observed by Davidson 2016</p> <p>The coastal permit area is likely to be too shallow for fishing for hapuku</p> <p>Other species listed as caught in the Tennyson Inlet and FMA7 are not reported, or expected in Hallam Cove specifically, given the depth of water and substrate.</p>	<p>Kahawai and snapper are likely to be the most commonly caught species at the coastal permit area given the depth of water, substrate and small area proposed. Also, none of these species were reported in the recreational survey, which provides more specific data on catch.</p> <p>Scallops are considered unlikely catch in the deeper part of Hallam Cove so are unlikely to be targeted at the coastal permit area</p>

### *Exclusion of fishing*

54 I consider the aquaculture activities proposed for the area of coastal permit U160976 may exclude some of the customary fishing methods that may be used in the area.

55 Of the customary fishing methods possibly occurring in the coastal permit area it is likely that longlining, trolling and drift fishing would be excluded. As noted, anecdotal information from recreational fishers suggests that spaces between longlines of mussel farms in the Marlborough Sounds are too narrow for longlining and trolling without risk of entanglement. I consider use of these methods by customary fishers would also be prevented. As noted, I also consider that drift fishing is unlikely to occur within marine farms because of risk of entanglement.

56 However, it is common for fishers to fish by rod/line within mussel farms so it is possible anchored fishing could continue between the proposed structures. I do not consider that diving would be excluded from the site. And, as previously stated, I note that coastal permit U160976 would allow for Li 237/MF 648 to be further offshore, which would decrease exclusion effects on methods which are often used near the shore (eg, drift fishing).

### *Availability of other fishing areas*

57 I consider there are some alternative areas for customary fishing in Hallam Cove and the wider Marlborough Sounds.

58 Apart from the Long Island Marine Reserve and Fighting Bay, all of the Marlborough Sounds is available for customary fishing under regulations 50 and 51 of the Amateur Regulations.<sup>13</sup> A large number of alternative areas are therefore available for customary fishing that may be displaced from the area of coastal permit U160976.

59 I also consider there are alternative areas in Hallam Cove and the wider Marlborough Sounds for customary fishers because:

- the predominantly mud substrate beneath the site is widespread in the Marlborough Sounds and no information suggests the site offers fishing opportunities (eg, habitat, species, methods) specific to it;
- the same methods as those used at the site could be used elsewhere in Hallam Cove and some other parts of the Marlborough Sounds; and
- there are sufficient alternative areas, particularly for rod/line fishing which can occur amongst mussel farms.

### *Increased cost of fishing*

60 I consider the aquaculture activities proposed for the area of coastal permit U160976 will result in a minimal, if any, increase in the cost of customary fishing.

61 Based on the available information, I consider that any customary fishing displaced from the coastal permit area can be carried out nearby with minimal additional cost and that most species targeted in the coastal permit area can be taken using alternative fishing methods.

### *Likely effect on fishing*

62 I consider the likely effect on customary fishing from the aquaculture activities proposed in the area of coastal permit U160976 will be small.

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<sup>13</sup> *The Marine Reserves Act 1971* and the *Submarine Cables and Pipelines Protection Act 1996*.

63 As noted, there is little available quantitative data on customary catch taken from the coastal permit area. MPI is therefore unable to estimate an average annual customary catch or proportion of customary catch likely to be affected by the proposed aquaculture activities. Rather, MPI can only make an assessment of the effect of the proposed aquaculture activities on customary fishing based on qualitative information.

64 Overall, I consider the effect on customary fishing from the proposed aquaculture activities will be very small because:

- not all customary fishing methods would be excluded from the site;
- the coastal permit would only increase the area of the existing marine farm area by a small amount (2%);
- the coastal permit would move the existing marine farm seaward and improve fishing opportunities inshore and closer to rocky reef habitat; and
- alternative areas within Hallam Cove and the wider Marlborough Sounds could absorb the customary fishing displaced from the site.

### *Cumulative effects*

65 I consider the effects from the aquaculture activities proposed for the area of coastal permit U160976, added to the effects of existing aquaculture in the Marlborough Sounds, will not have an undue adverse effect on customary fishing.

66 There is no quantitative catch data available to MPI to assess the cumulative effect of authorised aquaculture activities on customary fishing. As noted, site-specific fishing locations are not typically reported with customary authorisations. Therefore, MPI can only make an assessment of the cumulative effect of the proposed aquaculture activities on customary fishing based on the likely importance of the application site for fishing and the amount of aquaculture activities already authorised in the relevant customary fishery.

67 As noted, there are approximately 3,700 ha of authorised aquaculture space in the Marlborough Sounds, around 42 ha of which is in Hallam Cove. I consider the authorised aquaculture space has had some effect on customary fishing. However, I do not consider that the effect is undue because some customary fishing (eg, anchored rod/line fishing) can still occur within marine farms and it is unlikely all the farms are located in popular customary fishing areas.

68 As noted, I consider the adverse effects of the area of coastal permit U160976 on customary fishing will be small. Taking into account the effects of the existing authorised aquaculture areas, I consider the additional effects from the coastal permit area will not cause the cumulative effect on customary fishing to become undue.

### *Conclusion on effects on customary fishing*

69 I am satisfied the aquaculture activities proposed within the area of coastal permit U160976 will not have an undue adverse effect on customary fishing because:

- Only a small amount of customary fishing is likely to occur in the area
- anchored rod/line fishing and diving could still occur in the area;
- there are other customary fishing areas available inshore of the site and elsewhere in Tennyson Inlet and the wider Marlborough Sounds;
- occupation of the coastal permit area will result in a minimal, if any, increase in the cost of customary fishing; and

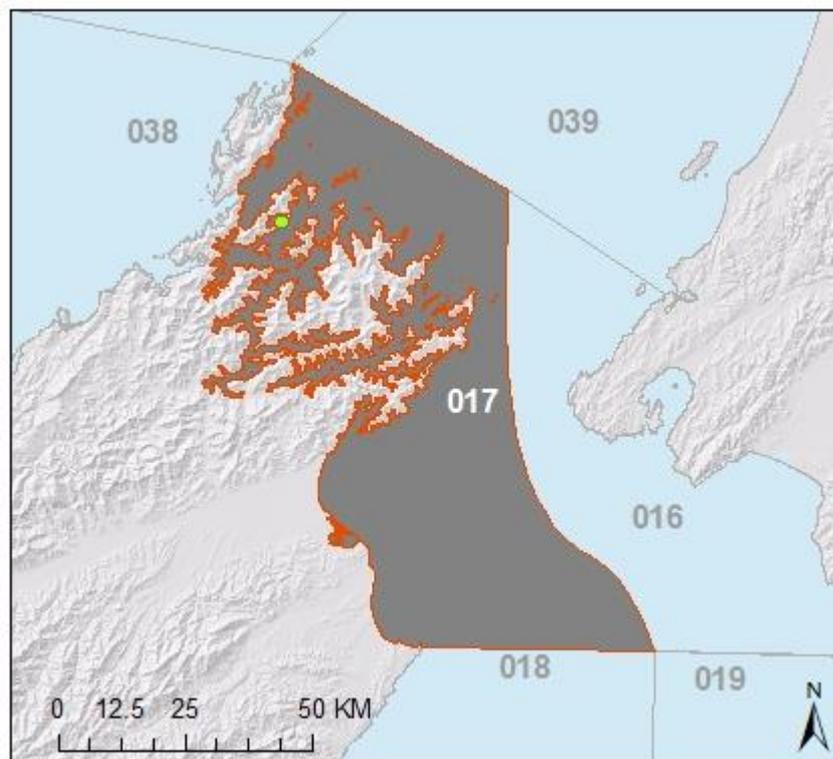
- the additional adverse effect of the coastal permit area on recreational fishing is only small and will not cause the cumulative effect on customary fishing to become undue.

### **Commercial fishing**

#### *The location of the coastal permit area relative to fishing areas*

70 I consider the area of coastal permit U160976 is located where there is little, if any, commercial fishing.

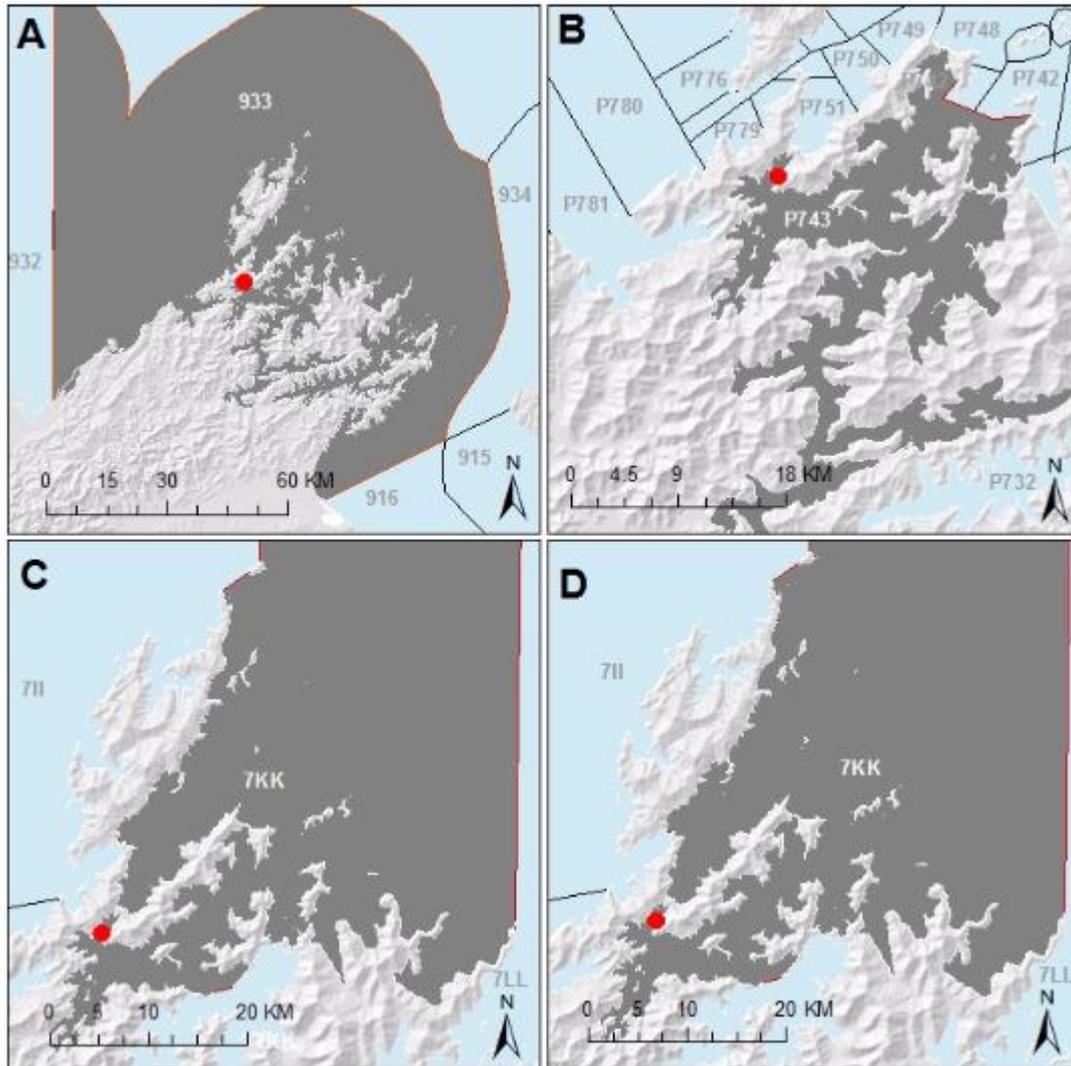
71 Historically, most commercial fishing has been reported by statistical area. The area of coastal permit U160976 is located in general statistical area 017 (SA017), which extends from the eastern edge of D’Urville Island to Cape Campbell (415 286 ha) (Map 5).



**Map 5: General statistical area SA017. The green circle marks the approximate location of coastal permit area U160976.<sup>14</sup>**

72 Scallops, oysters, rock lobster and paua are reported by species-specific statistical areas rather than by general statistical area. The area of coastal permit U160976 falls within rock lobster statistical area 933, paua statistical area P743, scallop statistical area 7KK and oyster statistical area 7KK (Maps 6A, 6B, 6C and 6D).

<sup>14</sup> Hillshade imagery produced by Geographx. Sourced from [www.koordinates.com](http://www.koordinates.com) under CC-BY. <http://creativecommons.org/licenses/by/3.0/nz/>



**Map 6: Species-specific statistical areas that encompass the area of coastal permit U160976 (approximate location as red circle). A – Rock lobster statistical area 933. B – Paua statistical area P743. C – Scallop statistical area 7KK. D – Oyster statistical area 7KK.<sup>15</sup>**

73 Reporting by statistical area only provides coarse-scale information about where commercial fishing occurs. However, since 2007/08 vessels over 6 m long that have used trawl or line fishing methods<sup>16</sup> have had to report the start position of each fishing event by latitude and longitude to within 1 minute, which equates to around 1 nautical mile (**nm**). Since 2006/07, start positions for netting methods<sup>17</sup> have had to report to within 2 nm.<sup>18</sup> Using this fine scale position data, MPI has modelled and mapped fishing intensity for different segments of fishing, characterised by a type of fishing gear and the main species caught.

74 The location of fishing by vessels less than 6 m long within SA017 is unknown. However, based on information from fisheries officers and Maritime New Zealand MPI has mapped long lining, bottom trawling and set-netting by vessels less than 6 m as being within enclosed bays and within 3 nm of open coasts. The fishing by vessels less than 6 m is included in the maps of fine scale position data which is the best information available from fisheries statistics. Although,

<sup>15</sup> Hillshade imagery produced by Geographx. Sourced from [www.koordinates.com](http://www.koordinates.com) under CC-BY. <http://creativecommons.org/licenses/by/3.0/nz/>

<sup>16</sup> Bottom long lining, surface long lining or trot lines.

<sup>17</sup> Set-netting or drift-netting.

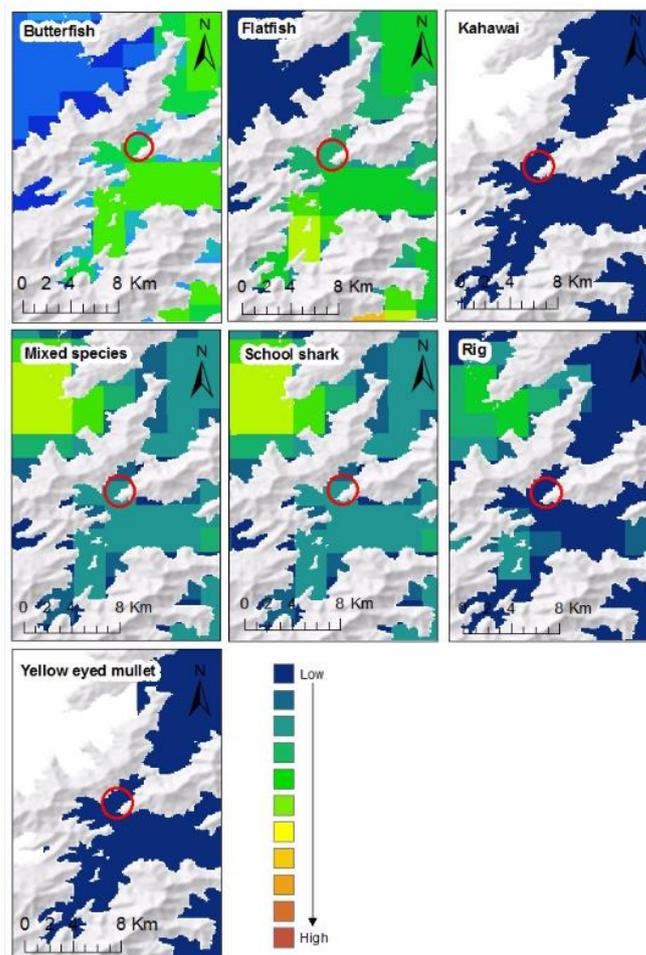
<sup>18</sup> *Fisheries (Reporting) Regulations 2001*.

knowledge about species and information from commercial fishers can also help to determine whether specific types of fishing are likely to occur in an area.

75 Table 3 below lists the main fishery segments known to occur in SA017 and summarises my assessment of which fishery segments are likely to overlap the area of coastal permit U160976. Maps 7 and 8 below shows the annual average fishing effort per ha (for fishing years 2007/08–2011/12) for overlapping fishery segments with fishing reported by latitude and longitude and by statistical area.

76 Table 3 also gives the relative amounts of fishing that report by start position. The higher the proportion of vessels reporting by start position, the greater confidence in the location of fishing as depicted in Map 7.

77 As noted in Table 3, set netting and lining for finfish, and dredging, diving and other methods for taking non-fish species are the commercial fishing methods permitted in Hallam Cove.<sup>19</sup>



**Map 7: Set net fishery segments reported by latitude and longitude and statistical area that overlap the area of coastal permit U160976 (approximate location marked by red circle).<sup>20</sup>**

<sup>19</sup> Fisheries (Challenger Area Commercial Fishing) Regulations 1986.

<sup>20</sup> Hillshade imagery produced by Geographx. Sourced from [www.koordinates.com](http://www.koordinates.com) under CC-BY. <http://creativecommons.org/licenses/by/3.0/nz/>

**Table 3: Fishery segments that are included in the commercial fishing assessment: Summary of the main fishery segments, defined by fishing method and main fishstock caught or fishing depth range, in relevant statistical areas from 2007/08 to 2011/12.**

Fishery segment (Main fishstock or depth range and main fishing method) <sup>21</sup>	Statistical area	% of fine scale fishing events	Average annual no. fishing days <sup>22</sup>	% of main fishstock caught in statistical area	Included in the proposed farm assessment?	Rationale for excluding a fishery from proposed farm assessment <sup>23</sup>
Flatfish (FLA7), Set Net	017	72%	155	6%	Yes	
Butterfish (BUT7), Set Net	017	40%	183	27%	Yes	
Mixed fishery, Set Net	017	71%	63	N/A	Yes	
Sea cucumber (SCC7A), Diving	017	0%	33	90%	Yes	
School shark (SCH7), Set Net	017	98%	15	14%	Yes	
Sea Urchin (SUR7A), Diving	017	0%	209	84%	Yes	
Other species, Diving	017	0%	13	N/A	Yes	
Mixed fishery, Hand Lining	017	0%	10	N/A	Yes	
Rock Lobster (CRA5), Lobster Pot	017	0%	731	14%	No	Rock lobsters concentrate in areas of rocky reef, although they may move across an open sandy bottom at certain times of the year. There is no rocky reef in the coastal permit area
Hoki (HOK1), Trawl	017	100%	421	22%	No	A year round trawl closure exists in the area
Scallops (SCA7), Dredge	7KK	0%	218	47%	No	Available information suggests the new coastal permit area is not in an area used for commercial scallop fishing
Ghost shark (GSH7), Trawl	017	99%	214	57%	No	A year round trawl closure exists in the area
Inshore Mix <80m depth, Trawl	017	98%	204	N/A	No	A year round trawl closure exists in the area
Red Cod (RCO7), Trawl	017	100%	176	18%	No	A year round trawl closure exists in the area

<sup>21</sup> Main fishstock refers to the species most often caught by the relevant method, it does not include all species taken by that method.

<sup>22</sup> Excludes segments with less than 10 days fishing per year.

<sup>23</sup> Unless otherwise stated, fishing is permitted and MPI has no information to indicate it does not occur in the vicinity of the coastal permit area.

<b>Fishery segment (Main fishstock or depth range and main fishing method)</b>	<b>Statistical area</b>	<b>% of fine scale fishing events</b>	<b>Average annual no. fishing days</b>	<b>% of main fishstock caught in statistical area</b>	<b>Included in the proposed farm assessment?</b>	<b>Rationale for excluding a fishery from proposed farm assessment</b>
<b>Inshore Mix &gt;80m &lt;300m, Trawl</b>	017	100%	149	N/A	No	A year round trawl closure exists in the area
<b>Blue cod (BCO7), Cod Pot</b>	017	0%	134	40%	No	Blue cod potting is highly unlikely to be affected as fishers are unlikely to set pots over soft substrate
<b>Hapuku and Bass (HPB7), Long Lining</b>	017	52%	132	32%	No	Hapuku and bass are unlikely to be found in the shallow waters of the coastal permit area
<b>School shark (SCH7), Long Lining</b>	017	23%	95	14%	No	Available information suggests the new coastal permit area is not an area used for commercial longlining
<b>Spiny Dogfish (SPD7), Trawl</b>	017	99%	81	24%	No	A year round trawl closure exists in the area
<b>Flatfish (FLA7), Trawl</b>	017	99%	68	6%	No	A year round trawl closure exists in the area
<b>Barracouta (BAR7), Trawl</b>	017	99%	62	2%	No	A year round trawl closure exists in the area
<b>Gurnard (GUR7), Trawl</b>	017	99%	62	8%	No	A year round trawl closure exists in the area
<b>Tarakihi (TAR7), Trawl</b>	017	100%	54	17%	No	A year round trawl closure exists in the area
<b>Blue cod (BCO7), Hand Lining</b>	017	0%	36	40%	No	Blue cod are commonly targeted over rock reef/cobble substrate. These habitats do not occur in the coastal permit area
<b>Surf clams, Dredge (PDO7)</b>	017	0%	34	0%	No	Tuatua are generally found in sandy intertidal zones. The coastal permit area does not overlap this substrate
<b>Other species, Potting</b>	017	0%	19	N/A	No	It is likely these species are bycatch from rock lobster or blue cod potting. Rock lobster and blue cod pots are unlikely to be set over soft substrate
<b>Other species, Dredging</b>	017	0%	18	N/A	No	This type of fishing is likely to be bycatch from scallop dredging. The coastal permit area is not and is unlikely to occur in the coastal permit area
<b>Mixed fishery, Long Lining</b>	017	82%	17	N/A	No	Available information suggests the new coastal permit area is not an area used for commercial longlining
<b>Snapper (SNA7), Trawl</b>	017	98%	17	10%	No	A year round trawl closure exists in the area
<b>Blue Warehou (WAR7), Trawl</b>	017	100%	11	6%	No	A year round trawl closure exists in the area
<b>Mixed fishery, Hand Lining</b>	017	0%	10	N/A	No	Available information suggests the new coastal permit area is not an area used for commercial longlining

### *Exclusion of fishing*

78 I consider the aquaculture activities proposed in the area of coastal permit U160976 will exclude only a small amount of commercial fishing, if any.

79 For the purpose of assessing commercial fishing methods, the exclusion zone for fishing methods included in this assessment is deemed to be the new coastal permit area (ie, 1.77 ha). I consider commercial set net fishing could occur immediately adjacent to the area of coastal permit U160976. Diving could occur within the area of coastal permit U160976 so would not be excluded from the site.

### *Availability of other fishing areas*

80 I consider that any commercial fishing displaced from the area of coastal permit U160976 could occur in other areas.

81 Commercial fishing closures or restrictions in the relevant QMAs or FMA7 limit the availability for alternative areas for commercial fishing.<sup>24</sup> Few closures or restrictions in SA017 limit alternative areas for methods permitted in Hallam Cove (ie, set netting and lining for taking finfish, and dredging, diving and other methods for taking non-fish species) but closures elsewhere in FMA7 limit areas available for set netting in particular. Regardless, I consider alternative areas in Hallam Cove and other parts of SA017 could absorb any commercial fishing displaced from the area of coastal permit U160976 because:

- the same methods as those possibly used at the coastal permit area could be used elsewhere in Hallam Cove or other parts of SA017;
- the species potentially targeted by commercial fishers within the area of coastal permit U160976 are typically found over silt and clay substrate which is common throughout the rest of Hallam Cove, elsewhere in SA017 and in the relevant QMAs or FMA7; and
- the area excluded to commercial fishing would be small compared to the available area.

82 I recognise areas of authorised aquaculture space have reduced the availability of other commercial fishing areas over time. As noted, there are around 42 ha of authorised aquaculture space in Hallam Cove. In SA017 there are approximately 3,450 ha of marine farms that make up about 33% of the 10,300 ha of aquaculture in FMA7.<sup>25</sup> The cumulative effect of the existing aquaculture is considered further below.

### *Increased cost of fishing*

83 I consider that the aquaculture activities proposed in the area of coastal permit U160976 will not increase the cost of commercial fishing.

84 While the coastal permit area may be located within a region used for commercial fishing, I consider that using alternative commercial fishing grounds would not result in an increase in the cost

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<sup>24</sup> The *Marine Reserves Act 1971*, *Fisheries (Challenger Area Commercial Fishing) Regulations 1986* and *Fisheries (Commercial Fishing) Regulations 2001* contain closures and restrictions that affect various species, method, time period, fishing gear, or a combination of these criteria.

<sup>25</sup> The 3,450 ha and 10,300 ha of authorised aquaculture space includes recent aquaculture decisions that may still be in the judicial review period.

of commercial fishing. This is because the coastal permit area will only exclude a small area from commercial fishing and there are equally productive fishing grounds available nearby.

### *Likely effect on fishing*

85 I consider the aquaculture activities proposed in the area of coastal permit U160976 will only have a small adverse effect on any commercial fishery, if any.

86 The amount of fishing effort estimated to be displaced by the activities proposed in the area of coastal permit U160976 is negligible. Less than 1 kg of average annual catch is likely to be affected by the proposed aquaculture activities for fishing indicated as assessed Table 3. The maps of fishing intensity (effort per ha) for each fishing sector were used to calculate the average annual amounts of fishing effort that is likely to be displaced from the exclusion zone<sup>26</sup> of the coastal permit area. Average landings per unit effort for all species caught in each fishery segment were then used to estimate the amount of fish likely to have been landed.

87 Fishing effort that is only reported by statistical area was apportioned evenly across the area available for fishing although some areas are likely to include more productive habitats than others. The parts of the statistical area available for fishing for each type of fishing method are defined by using all available information (including regulated closures, bathymetry, seabed substrate, and consultation with fishers) about where the method is likely to be used. Where fishing is reported to the statistical area level, there is increased uncertainty as to where fishing events have taken place within the statistical area.

88 The amount of fishing was averaged over October fishing years 2007/08 to 2014/15. Eight years is long enough to take into account natural variation in the abundance and distribution of fish stocks and fishing effort so that likely average future fishing is fairly represented.

89 Given the very small catch quantities likely to be affected by the proposed aquaculture activities, MPI has not attempted to determine the likely changes in catch rates for the displaced fishing in order to estimate the net effect on commercial fishing. This assessment is based on the worst-case scenario that all of the catch displaced from the coastal permit area would be lost from the affected fisheries and no new catch would be available from the vacated area.

### *Cumulative effects*

90 I consider the addition to the cumulative effect on commercial fishing from the aquaculture activities proposed in the area of coastal permit U160976 is negligible.

91 Around 10,300 ha of authorised aquaculture activities in FMA7 have been previously assessed for their total cumulative effect on commercial fishing. For any fish stocks potentially affected by the new area of coastal permit U160976, the cumulative effect has previously been assessed as a maximum of approximately 1.4% effect on any fishery and not undue.

92 As noted, the coastal permit area would affect less than 1 kg of average annual catch for fishing indicated as assessed in Table 3. I consider this negligible increase will not cause the new level of cumulative effect on any fishery to become undue.

### *Conclusion on effects on commercial fishing*

93 I am satisfied the aquaculture activities proposed within the area of coastal permit U160976 will not have an undue adverse effect on commercial fishing because:

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<sup>26</sup> The “exclusion zone” used for the methods assessed was the new coastal permit area (i.e. 1.77 ha).

- there are alternate fishing grounds in Hallam Cove, SA017 and the relevant QMAs or FMA7;
- occupation of the new coastal permit area will result in a minimal, if any, increase in the cost of commercial fishing;
- effects on commercial fishing catch will negligible; and
- the additional adverse effect on commercial fishing for any fish stock will not cause the cumulative effect on commercial fishing for any fish stock to become undue.

## Aquaculture decision

94 I am satisfied – based on all relevant information available to me – the activities proposed for coastal permit area U160976 will not have an undue adverse effect on:

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

95 Accordingly, my decision is a determination for coastal permit U160976 with regard to:

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

96 The area of the determination on recreational, customary and commercial fishing is 1.77 ha comprising an area with the following coordinates (NZTM2000):

<u>Point</u>	<u>Easting</u>	<u>Northing</u>
1	1668427.460	5459468.590
2	1668570.110	5459413.260
3	1668569.281	5459411.124
4	1668480.846	5459445.437
5	1668408.637	5459259.045
6	1668373.172	5459259.045
7	1668318.970	5459188.890

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



**David Scranney**  
Manager Customary Fisheries and Spatial Allocations  
Ministry for Primary Industries

Dated this 26 July 2017

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