



16 August 2018

AQUACULTURE DECISION REPORT — JONATHAN TESTER & CIARAN HUGHES, COASTAL PERMIT U170080, EAST OF LONE ROCK, CROISILLES HARBOUR

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

SUMMARY

2 I am satisfied the aquaculture activities proposed within the area of coastal permit U170080 will not have an undue adverse effect on the following fishing sectors:

- *recreational* - for the reasons set out in this report and summarised in paragraph 17;
- *customary* - for the reasons set out in this report and summarised in paragraph 17;
- *commercial* - for the reasons set out in this report and summarised in paragraph 37.

AQUACULTURE DECISION REQUEST DETAILS

Regional Council:	Marlborough District Council (MDC)
Date of Request:	4 July 2018
Coastal Permit Applicant:	Jonathan Tester and Ciaran Hughes.
Location of marine farm site:	Symonds Bay (east of Lone Rock), Squally Cove, Croisilles Harbour.
Size of farm:	1.59 hectares (ha) of new space.
Species to be farmed:	Green-lipped mussel (<i>Perna canaliculus</i>), blue mussel (<i>Mytilus edulis</i>), scallop (<i>Pecten novaezelandie</i>), dredge oyster (<i>Tiostrea chilensis</i>), Pacific oyster (<i>Crassostrea gigas</i>), cockle (<i>Chione stutchburyi</i>), pāua (<i>Haliotis iris</i> , <i>Haliotis australis</i> , <i>Haliotis virginea</i>), kina (<i>Evechinus chloroticus</i>), seaweed (<i>Ulva lactuca</i> , <i>Macrocystis pyrifera</i> , <i>Eclonia radiata</i> , <i>Lessonia variegata</i> , <i>Pterocadia lucida</i> , <i>Gracilaria sp</i>) and sponge (<i>Lissodendoryx sp.</i> , <i>Latrunculia cf bacegei</i> , <i>Latrunculia n.sp 1</i> , <i>Raspailia agminate</i> <i>Mycale sp.</i>)
Farm structures:	Standard marine farm longlines and anchors with droppers.

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

Location and structures

3 Coastal permit U170080 applies to an area east of Lone Rock in Squally Cove (Map 1). Coastal permit U170080 will occupy 1.59 ha of new space (**proposed site**).

4 The closest existing farm to the proposed site is marine farm permit 251 (**MF 251**) to the north of the proposed site. Marine farm licence 518 (Li 518) lies to the east in Symonds Bay.



Map 1². Location of the new area authorised by coastal permit U170080 (red) at Symonds Bay (MPI, 2018). A site map of structures is in Appendix A.

5 The area of the proposed site is approximately 90 meters (m) from shore at its closest point and ranges from approximately 8 - 12 m deep. The substrate at the proposed site is

² Disclaimer: Maps 1-6 and all accompanying information accompanying (the “Maps”) is intended to be used as a guide only, with other data sources and methods, and should only be used for the purpose for which it was developed. The information shown in the Maps is based on a summary of data obtained from various sources. While all reasonable measures have been taken to ensure the accuracy of the Maps, MPI: (a) gives no warranty or representation in relation to the accuracy, completeness, reliability or fitness for purpose of the Maps; and (b) accepts no liability whatsoever in relation to any loss, damage or other costs relating to any person’s use of the Maps, including but not limited to any compilations, derivative works or modifications of the Maps. Crown copyright ©. The maps are subject to Crown copyright administered by Ministry for Primary Industries (MPI). Data Attribution:

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dominated by sand with a small portion of shell gravel and mud/silt. No habitat of particular ecological significance was seen at the proposed site (Olsen and Grange, 2018).

6 The proposed site allows the operation of 4 lines, ranging in length from 220-310 m, distanced approximately 15m apart. Configuration of the site is shown in Appendix A.

Input from stakeholders

7 Fisheries New Zealand publicised the application for coastal permit U170080 on its website on 7 July 2018. 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 was 27 July 2018. Fisheries New Zealand 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 customary, recreational, or commercial fishing³. A ‘*reservation*’ is a decision that I am not satisfied that the aquaculture activities authorised by the coastal permit will not have an undue adverse effect on fishing.

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 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;
- (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

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

- (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.

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

14 Appendices B and C have further information on statutory context and customary fishing respectively.

ASSESSMENT

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

16 This assessment relates to the 1.59 ha of new marine farming space authorised by coastal permit U170080.

Recreational and customary fishing

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

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

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

Location of the coastal permit area relative to fishing areas

19 The location of the coastal permit area relative to fishing areas for recreational and customary⁴ sectors are considered separately below.

⁴ There is little quantitative data available on customary or recreational catch taken from the proposed site. Fishing locations for customary authorisations are usually only reported at the Fisheries Management Area (FMA) or Quota Management Area (QMA) although more specific sites are sometimes identified. Recreational fishers are not required to report catch or fishing locations. MPI is therefore unable to estimate an average annual recreational catch or proportion of recreational catch likely to be affected by the proposed aquaculture activities. Rather, MPI can only assess the effect of the proposed aquaculture activities on recreational fishing based on qualitative information.

Recreational Fishing

20 I consider the area of the proposed site is located where a relatively small amount of recreational fishing occurs. Methods likely to be used include mobile rod/line from a private boat, dredging, set netting, diving and some longlining. The main species likely to be caught are snapper, kahawai and gurnard.

21 A low amount of Amateur Charter Vessel⁵ (ACV) fishing has been reported that overlaps Symonds Bay and a moderate level has been reported in the nearby outer mouth of Squally Cove.

22 Aerial survey results⁶ suggest there is a low to moderate amount of recreational fishing at the proposed site as shown in Map 2 below. The diary survey published in 2008 by Davey et al recorded 14% of fishing trips in the Marlborough Sounds were in the survey zone of Croisilles Harbour. This zone includes Symonds Bay and Squally Cove.



Map 2. Aerial survey results from 2006 of recreational fishing intensity (Davey *et al*, 2008). Line shows location of proposed site.

23 Table 1 summarises my assessment of the main methods used and species likely to be caught at the proposed site based on information available to Fisheries New Zealand, including the Davey et al. (2008) survey, the Olsen and Grange (2018) ecological report and ACV data from 2010 to 2015.

⁵ ACV data is reported through Activity Catch Returns and includes fishing positions, target and caught species numbers, and methods used.

⁶ Recreational fishing survey of the Marlborough Sounds (Davey *et al*, 2008)

Table 1: Recreational fishing methods used, and species caught at the area of coastal permit U170080 based on the available information.

Source of Information				
	Davey <i>et al.</i> (2008) results for the Croisilles Harbour survey zone	ACV data for Croisilles Harbour	Other information	My assessment
Methods used	Rod/line from boat (34% of trips), dredging and set netting (22%), diving (14%), longline (4%)	Hand line, anchored and drift fishing, dredging, cray potting, diving and some set netting within Croisilles Harbour. However, very few fishing events were recorded at Squally Cove.	The silt and clay substrate and relatively flat seabed is suitable for most of the methods identified as occurring in the survey zone containing Samson Bay by Davey <i>et al.</i> , 2008. No substrate suitable for crayfish potting at the proposed site was observed in the Olsen and Grange 2018 survey.	Stationary and mobile rod/line methods, dredging, set netting, diving and some longlining may be used at the site.
Species caught ⁷	Scallops (6325), blue cod (315) snapper (137), crayfish (134), kahawai (25), gurnard (21), barracouta and sea perch (19), blue moki and yellow eyed mullet (12)	Scallops, gurnard, snapper, blue cod.	No substrate suitable for crayfish potting was observed in the Davidson 2017 survey Scallops and horse mussels were seen below trigger levels ⁸ in a historic survey for part of the existing farm (Brown and Handley, 2001), however none were seen in the Davidson survey in 2017.	The most commonly caught species at the site are likely to be snapper, kahawai and gurnard. Scallops may be caught, but the silt bottom and close proximity of other farms makes it unlikely. Also, the scallop fishery in the top of the South Island, including Croisilles Harbour, is closed until further notice. Blue cod, moki and crayfish could be caught at the coastal permit area, however the sandy bottom makes it unlikely.

⁷ The number of species caught at Croisilles Harbour, the survey zone covering the proposed site of coastal permit U170080, over the 12 month survey period of the Davey survey. Note, for ACV data, there were large numbers of nil reports that could not be included.

⁸ As per 'guidelines for ecological investigations of proposed marine farm areas, Marlborough Sounds' Department of Conservation (DOC, 1995).

Customary Fishing

23 I consider the proposed site is located where there is likely to be little, if any, customary fishing. Any customary fishing is likely to be by rod/line from a boat and some dredging, diving and longlining. The main species targeted and caught may be snapper, rig, gurnard and kahawai.

24 Available information on customary fishing is primarily qualitative information from submissions and quantitative catch information from customary authorisations.⁹ Further details on customary fishing information can be found in Appendix C.

25 I have assessed likely customary fishing in the proposed site in Table 2 below.

Table 2: Customary fishing methods used and species caught or targeted at the area of coastal permit U170080

	Source of information		
	Customary authorisations for Sampson Bay, Squally Cove and Croisilles Harbour	Other information	My assessment
Methods used	N/A	Recreational fishers commonly use stationary and mobile rod/line methods, dredging and diving. A previous submission from Ngati Toa suggests set/gill netting, diving, and possible dredging.	Rod/line from boat, dredging and diving are the most common methods for recreational fishers and may also be used by customary fishers.
Species caught or targeted¹⁰	Scallops, oysters, paua, snapper, kahawai, blue cod, rock lobster, kina, butterfish, flatfish, blue moki, rig, green-lipped mussels, pipi, hapuku, red cod, school shark, spiny dogfish, elephant fish, smooth skate, tuatua, gurnard and yellow-eyed mullet.	Paua, crayfish, kina, butterfish, moki or blue cod are not typically found over the reef and algae-free substrate at the proposed site. A submission for a previous marine farm application in Croisilles Harbour suggests that the whole Harbour is important for customary scallop fishing. Rig, flounder, monkfish were also included in a submission for a previous coastal permit application in Croisilles Harbour. No scallops were seen by the Davidson 2017 survey, however some were seen in previous survey for the existing farm by Brown and Handley (2001).	Snapper, gurnard, rig and kahawai, are likely to be the most commonly caught fish at the proposed site. Kina, paua and rock lobster are unlikely to be found over sandy and shell grit substrate. Flatfish, bluemoki, monkfiss, elephant fish, skate blue cod yellow eyed mullet, red cod and spiny dog may be caught, but no reports exist and nearby farms may further inhibit the catch of these species. Scallops may be caught, but the silt bottom and close proximity of other farms makes it unlikely.

⁹ Fishing locations for customary authorisations issued under the *Fisheries (South Island Customary Fishing) Regulations 1999* are usually only reported at Fisheries Management Area (FMA) or Quota Management Area (QMA) scale, although more specific sites are sometimes identified. Customary authorisations issued under regulations 50 and 51 of the Amateur Regulations do not need to be routinely reported, and these are the mainly used for the top of the south as the notification for mandated iwi is in dispute.

¹⁰ From January 2009 to April 2016 no customary authorisations with site-specific information were issued for Symonds Bay.

Exclusion of fishing

26 I consider, of the recreational and customary fishing occurring in the area, that mobile rod and line fishing, set netting and dredging would be excluded from the proposed site because of the risk of entanglement.¹¹

27 However, I consider that anchored fishing and diving could continue between the proposed structures. Anecdotal information suggests fishers commonly fish by rod/line within mussel farms and diving is possible under farms.

Availability of other areas

28 I consider alternative areas in Squally Cove and Croisilles Harbour could absorb recreational and customary fishing displaced from the proposed site because:

- the proposed site is small and the amount of fishing that would occur there is likely small also;
- the same species expected over the sand substrate at the proposed site could be found in most areas of Croisilles Harbour, where the substrate is common. No information suggests the site offers special fishing habitats or species mix; and
- the same methods likely used at the proposed site could be used elsewhere in Squally Cove and most other parts of Tasman Bay and the Marlborough Sounds; sufficient alternative areas exist especially for rod/line fishing.

29 There are closures and various species and method restrictions in place for recreational fishing, particularly for set netting and longlining¹², in Tasman Bay and the wider Marlborough Sounds. While these restrictions limit the available alternative area, there is still a large amount of area available for recreational fishing in relation to the small area of the proposed site.

30 Apart from the Long Island Marine Reserve and Fighting Bay¹³, all of the Marlborough Sounds is available for customary fishing under regulations 50 and 51 of the Amateur Regulations¹⁴. Many alternative areas are therefore available for customary fishers.

31 Areas of authorised aquaculture space have reduced the availability of other recreational and customary fishing areas over time. The cumulative effects of existing aquaculture are further considered below.

Increased cost of fishing

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

33 I consider that any recreational or customary fishing excluded from the site could be carried out nearby with minimal additional cost, as a result of a marginal increase in fuel cost or change in method. I consider that most species targeted at the site could still be taken using alternative fishing methods.

¹¹ Anecdotal information from recreational fishers suggests that spaces between longlines of mussel farms in the Marlborough Sounds are too narrow for longlining, set netting and trolling without risk of entanglement. I also consider that drift fishing is unlikely to occur within marine farms because of risk of entanglement.

¹² Amateur regulations. A taipure reserve exists at Delaware Bay, however no bylaws are in place.

¹³ *Marine Reserves Act 1971* and the *Submarine Cables and Pipelines Protection Act 1996*.

¹⁴ Because the notification for Kaitiaki is in dispute, customary authorisations for the top of the South Island are issued under regulations 50 and 51 of the Amateur Regulations.

Likely effect on fishing

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

- not all recreational or customary fishing methods would be excluded from the proposed site;
- the area of the proposed site is small and, because it is unlikely to be of particular importance to recreational or customary fishers, the effect will be minimal; and
- alternative areas within Squally Cove and the wider Marlborough Sounds and Tasman Bay could absorb the recreational and customary fishing displaced from the proposed site.

Cumulative effects

35 I consider existing aquaculture in the Marlborough Sounds and Tasman Bay has affected recreational and customary fishing.¹⁵ There are approximately 11843 ha of existing aquaculture in the Marlborough Sounds, approximately 190 ha of which is in Croisilles Harbour.

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

- some recreational and customary fishing (eg, anchored rod/line fishing) can still occur within marine farms;
- not all existing farms are located in popular recreational and customary fishing areas; and

Commercial fishing

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

- a negligible amount of commercial fishing is likely to occur in the area;
- a negligible amount of commercial fishing is likely to be excluded from the proposed site;
- there are alternate fishing grounds in Squally Cove, SA038 and the relevant QMAs or FMA7;
- occupation of the proposed site will result in a minimal, if any, increase in the cost of commercial fishing;
- effects on commercial fishing catch will be negligible; and
- the additional adverse effect on commercial fishing is only small and will not cause the cumulative effect on commercial fishing for any fish stock to become undue.

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

¹⁵ As noted, there is limited quantitative data available to assess the cumulative effects of authorised aquaculture on customary or recreational fishing. Therefore, MPI can only assess cumulative effects on customary or recreational fishing based on the amount of aquaculture already authorised in the relevant customary or recreational fishery and the likely importance of the area of the proposed site for fishing.

Location of the coastal permit area relative to fishing areas

39 I consider the proposed site is located where there is little, if any, commercial fishing.

40 Symonds Bay is within Fisheries Management Area 7 (FMA7) (Map 3). Historically, most commercial fishing has been reported by statistical area. The area of the proposed site is in general statistical area 038 (SA038), which extends from the northern tip of d’Urville Island to Farewell Spit. Further detail on fisheries management and statistical areas is available in Appendix D.



Map 3. Fisheries Management Area 7 (FMA7). Insert shows approximate location of proposed site in Croisilles Harbour.

41 Fisheries New Zealand has assessed the main fisheries, bathymetry and habitat known to occur in SA038 and the relative amounts of fishing that report by start position. Fisheries New Zealand has used this, along with institutional information to inform Table 3 and the commercial fishing assessment below. Fisheries New Zealand considers a negligible amount of commercial fishing occurs at the proposed site.

42 Further detail on how Fisheries New Zealand analyses commercial fishing can be found in Appendix D.

Table 3: Fisheries that are included in the commercial fishing assessment

Fishery segment (Main fishstock or depth range and main fishing method) ^A	Statistical area	% reported by position	Average annual no. fishing days ^B	% of main fishstock caught in statistical area	Potentially affected by coastal permit?	Rationale for excluding fishery from proposed farm assessment
Rig (SPO7), Set Net	038	95%	95	44%	Yes	
Mixed Fishery, Set Net	038	95%	58	N/A	Yes	
School shark (SCH7), Set Net	038	95%	22	11%	Yes	
Sea cucumber (SCC7B), Diving	038	0%	21	84%	Yes	
Inshore Mix <80m depth, Trawl	038	99%	1017	N/A	No	Trawling is not permitted in Croisilles Harbour.
Rock Lobster (CRA5), Lobster Pot	933, 932	0%	733	3%	No	Rock lobsters are associated with reef habitat – this habitat is not in the coastal permit area.
Flatfish (FLA7), Trawl	038	99%	610	34%	No	Trawling is not permitted in Croisilles Harbour.
Red Cod (RCO7), Trawl	038	97%	366	17%	No	Trawling is not permitted in Croisilles Harbour.
Paddle Crab (PAD7), Pot	038	0%	317	90%	No	Information from fishery officers suggests no potting for paddle crabs occurs in Croisilles Harbour.
Snapper (SNA7), Trawl	038	99%	229	77%	No	Trawling is not permitted in Croisilles Harbour.
Gurnard (GUR7), Trawl	038	100%	204	28%	No	Trawling is not permitted in Croisilles Harbour.
Barracouta (BAR7), Trawl	038	99%	176	3%	No	Trawling is not permitted in Croisilles Harbour.
Flatfish (FLA7), Danish Seine	038	1%	174	34%	No	Danish seining is not permitted in Croisilles Harbour.
Mixed Fishery, Danish Seine	038	1%	123	N/A	No	Danish seining is not permitted in Croisilles Harbour.
Fishery segment (Main fishstock or depth range and main fishing method) ^A	Statistical area	% reported by position	Average annual no. fishing days ^B	% of main fishstock caught in statistical area	Potentially affected by coastal permit?	Rationale for excluding fishery from proposed farm assessment
Spiny Dogfish (SPD7), Trawl	038	99%	108	8%	No	Finfish take by trawling is not permitted in Croisilles Harbour.
Cockles (COC7A), Mechanical Harvest	038	0%	102	100%	No	Commercial cockle fishing in FMA7 only occurs in a couple of very discrete areas that do not include Croisilles Harbour.
Blue Warehou (WAR7), Trawl	038	100%	38	10%	No	Finfish take by trawling is not permitted in Croisilles Harbour.

Albacore (ALB1), Trawl	038	0%	36	0%	No	Finfish take by trawling is not permitted in Croisilles Harbour.
Geoduck (PZL7), Diving	038	0%	25	71%	No	Commercial geoduck fishing only occurs in a couple of very discrete areas in FMA7 that do not include Croisilles Harbour.
Blue Cod (BCO7), Pot	038	0%	19	24%	No	Finfish take by potting is not permitted in Croisilles Harbour.
School shark (SCH7), Long Line	038	46%	16	11%	No	Finfish take by long lining is not permitted in Croisilles Harbour.
Other species, Potting	038	0%	14	N/A	No	Finfish take by potting is not permitted in Croisilles Harbour.
Butterfish (BUT7), Set Net	038	30%	13	4%	No	Butterfish are associated with reef and kelp habitat – this habitat is not in the coastal permit area.
Other, Diving	038	0%	12	N/A	No	Diving is usually carried out in reef areas - this habitat is not in the coastal permit area.
Tarakihi (TAR7), Trawl	038	98%	11	4%	No	Finfish take by trawling is not permitted in Croisilles Harbour.

Exclusion of fishing

43 I consider that some commercial fishing could be excluded from the proposed site including set netting, dredging and bottom longlining. The area assessed as excluded to commercial dredge fishing includes a 50 buffer around the proposed site, as Fisheries New Zealand considers it is not possible to dredge immediately adjacent to marine farm structures. For the proposed site an area of 3.2 ha has been assessed as excluded.

44 I consider commercial diving, set net fishing and longlining could occur immediately adjacent to the proposed site.

Availability of other fishing areas

45 I consider alternative areas in Squally Cove and other parts of SA038 could absorb any commercial fishing displaced from the proposed site because:

- the same methods as those possibly used at the coastal permit area could be used elsewhere in Squally Cove or other parts of SA038;¹⁶
- the species potentially targeted by commercial fishers within the area of coastal permit U170080 are typically found over silty substrate common throughout the rest of Tasman Bay, elsewhere in SA038 and in the relevant QMAs or FMA7; and
- the area excluded to commercial fishing would be small compared to the available area.

46 Areas of authorised aquaculture space have reduced the availability of other commercial fishing areas over time. The cumulative effects of the existing aquaculture is considered further below.

Increased cost of fishing

47 I consider that the aquaculture activities at the proposed site will not increase the cost of commercial fishing.

48 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 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

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

50 Fisheries New Zealand estimates the amount of fishing that would be displaced by the aquaculture activities in the proposed site is less than 1kg in total for all species included in the assessment, as indicated in Table 3.

¹⁶ Few closures or restrictions in SA038 limit alternative areas for methods permitted in Squally 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 alternative available areas, particularly for set netting.

Cumulative effects

51 I consider existing aquaculture in Tasman and Golden bays has affected commercial fishing. There are around 100 ha of authorised aquaculture space in Squally Cove. There are approximately 6,800 ha of marine farms in statistical area 038 that make up more than 65% of the 12,300 ha of aquaculture in FMA7.

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

- for any fish stocks potentially affected by the proposed site, the cumulative effect has previously been assessed as a maximum of approximately 3.3% effect on any fishery, and not undue;
- Fisheries New Zealand estimates less than 1kg of average annual catch occurs within the site, for the fishing as assessed in Table 3 as potentially occurring in the proposed site; and
- this amount of catch is small and would not cause the cumulative effects of approved aquaculture space to become undue.

AQUACULTURE DECISION

53 I am satisfied – based on all relevant information available to me – the activities proposed for coastal permit area U170080 will not have an undue adverse effect on:

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

54 Accordingly, my decision is a determination for coastal permit U170080 with regard to:

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

55 The area of the determination on recreational, customary and commercial fishing is 1.59 ha comprising an area with the following coordinates (NZTM2000):

<u>Point</u>	<u>Easting</u>	<u>Northing</u>
1	1656396.830	-5452635.300
2	1656395.520	-5452685.290
3	1656770.390	-5452695.100
4	1656656.740	-5452642.110

56 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 16 August 2018

References

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APPENDIX A: SITE MAP

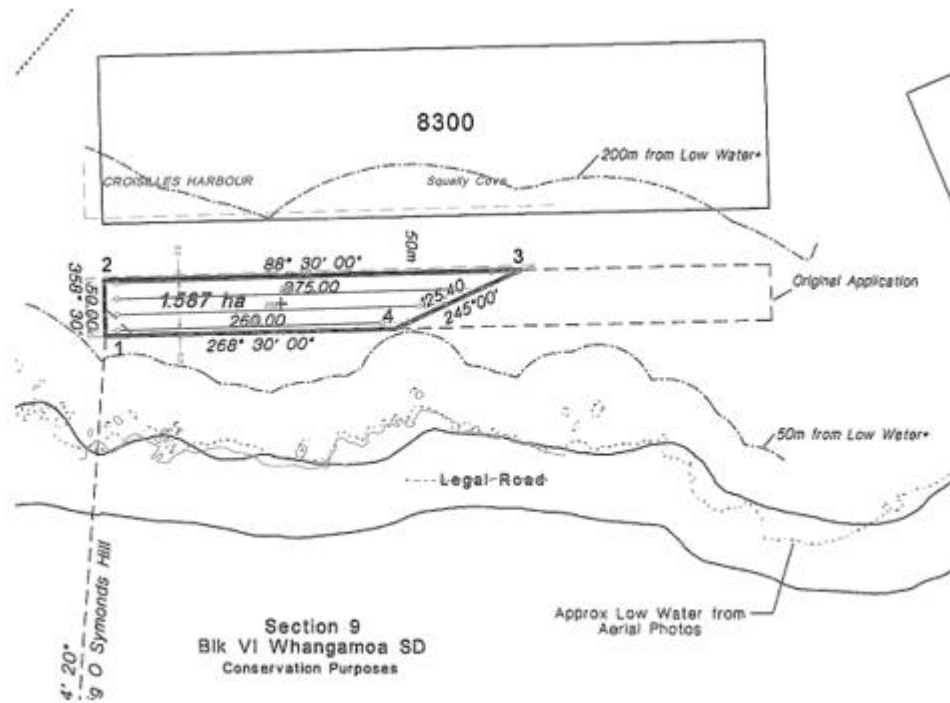


Figure 1. Site map showing location of new space and structures.

APPENDIX B: ADDITIONAL STATUTORY CONTEXT

1 Section 186E(3) of the Fisheries Act 1996 (**Fisheries Act**)¹ requires me, in making an aquaculture decision, to have regard to any:

- (a) information held by the Ministry for Primary Industries;
- (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.
- (c) information that is forwarded by the regional council; and
- (d) any other information that the Director-General has requested and obtained.

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

3 Section 186GB(2) of the Fisheries Act says that if a pre-request aquaculture agreement has been registered under section 186ZH in relation to the areas that the coastal permit relates to, I must not have regard to the undue adverse effects on commercial fishing in respect of any stocks covered by the pre-request aquaculture agreement when having regard to the matters specified in section 186GB(1). No pre-request aquaculture agreements have been registered in relation to coastal permit U170080.

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

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

¹ 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.

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

7 The *Fisheries (South Island Customary Fishing) Regulations 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.

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

APPENDIX C: CUSTOMARY FISHING

1 At least eight iwi at the top of the South Island may have customary fishing interests in the coastal permit area. There is one taiapure-local fishery at Delaware Bay in Tasman Bay and no existing customary management areas in the Marlborough Sounds. The eight iwi have jointly notified their Tangata Tiaki/Kaitiaki for an area/rohe moana that encompasses the coastal permit area. The notification is currently in dispute.¹

2 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 Rā To Trust; or Ngāti Koata Trust; or Ngāti Rarua Iwi Trust; or Ngāti Tama ki e Waipounamu Trust; or Te Runanga o Ngāti Toa Ngāti Toa Rangatira; or Te Atiawa o Te Waka a Maui Trust; or Te Runanga A Rangitane o Wairau; or Te Runanga O Ngāti Kuia Trust.

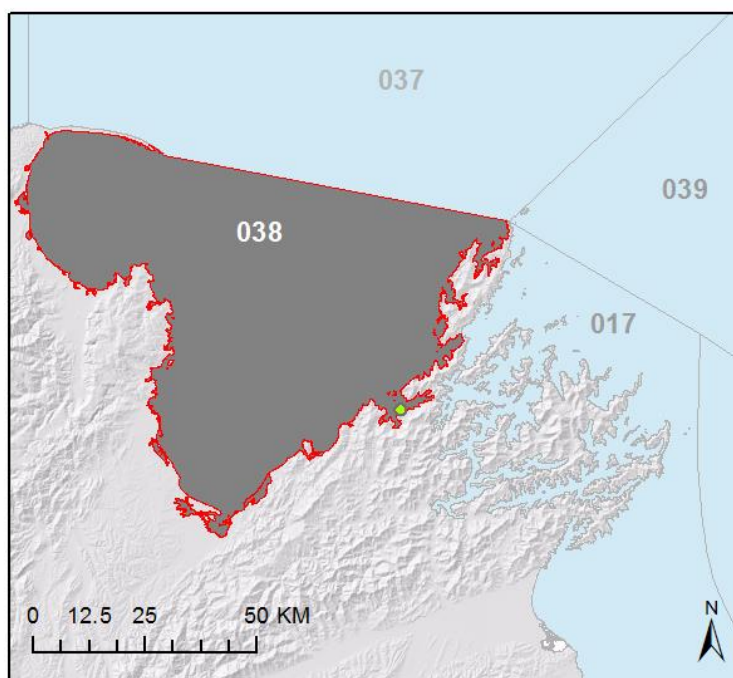
¹ Because the notification is in dispute, customary authorisations for the top of the South Island are issued under regulations 50 and 51 of the Amateur Regulations.

APPENDIX D: COMMERCIAL FISHING

Fisheries boundaries

1 New Zealand's 200 nautical mile (nm) Exclusive Economic Zone (EEZ) is divided into ten Fisheries Management Area's (FMA's) for fisheries management purposes. A Quota Management Area (QMA) is an area within which a designated fish stock is managed under the Quota Management System, and is generally based around FMAs. As noted, this application is in Fisheries Management Area 7 (FMA7).

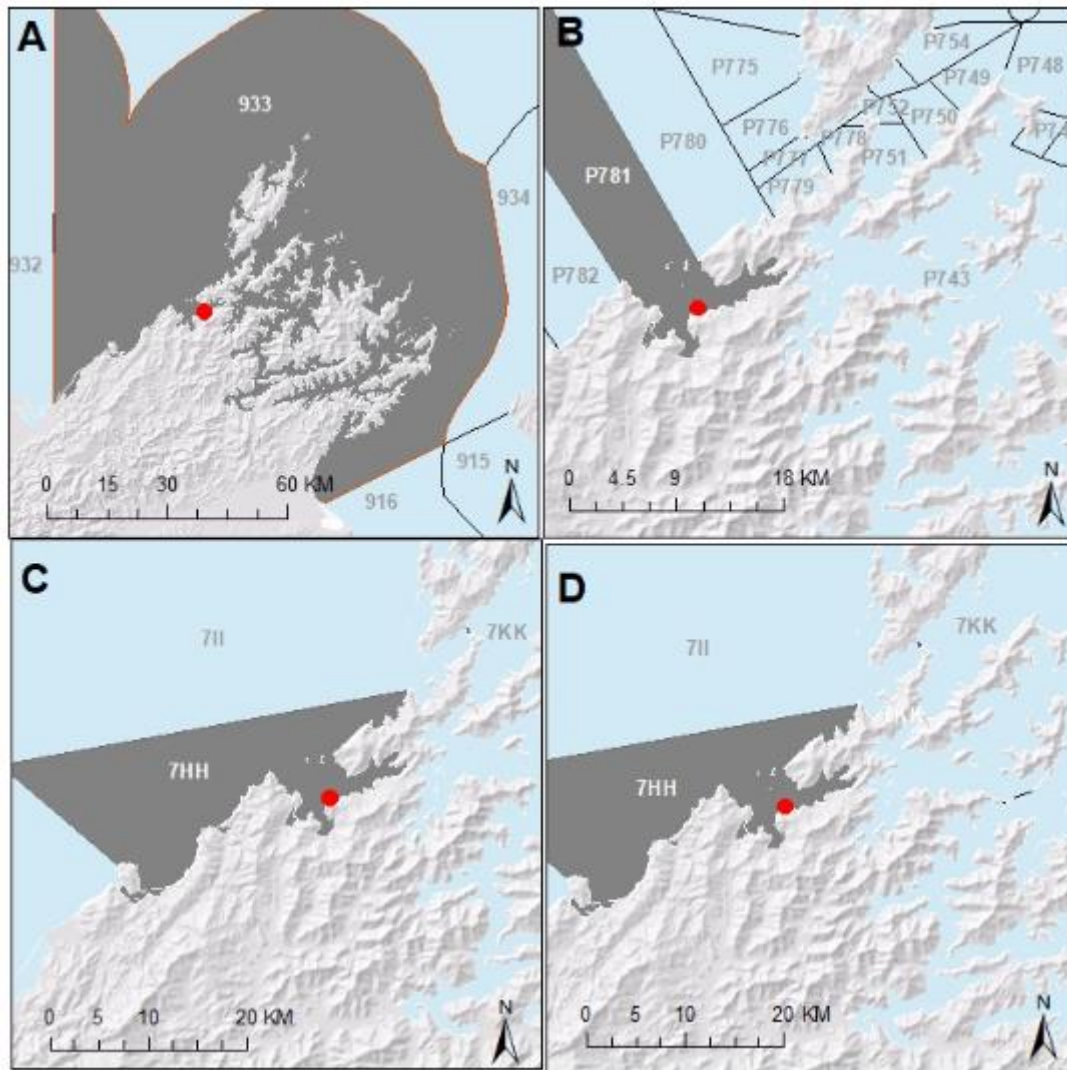
2 Fisheries reporting has historically occurred by general statistical area. There are 120 of these areas in the New Zealand 200 nm EEZ and this provides for more fine scale data to be collected than at an FMA scale. As noted, this application is in general statistical area 038 (SA038) (Map 1).



Map 1: General statistical area SA038. The green circle marks the approximate location of coastal permit area U170080.¹

3 Scallops, oysters, rock lobster and paua are reported by species-specific statistical areas rather than by general statistical area. The area of coastal permit U170080 falls within rock lobster statistical area 933, paua statistical area P781, scallop statistical area 7HH and oyster statistical area 7HH (Maps 2A, 2B, 2C and 2D).

¹ Hillshade imagery produced by Geographx. Sourced from www.koordinates.com under CC-BY. <http://creativecommons.org/licenses/by/3.0/nz/>



Map 2: Species-specific statistical areas that encompass the area of coastal permit U170080 (approximate location as red circle). A – Rock lobster statistical area 933. B – Paua statistical area P781. C – Scallop statistical area 7HH. D – Oyster statistical area 7HH.²

Commercial fishing reporting and analysis

1 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 have reported the start position of each fishing event by latitude and longitude to within 1 minute, which equates to around 1 nm. Since 2006/07, start positions for netting methods have reported to within 2 nm. Using this fine scale position data, Fisheries New Zealand modelled and mapped fishing intensity for different segments of fishing, characterised by a type of fishing gear and the main species caught.³ This detail can be commercial sensitive and cannot be publically released

2 The location of fishing by vessels less than 6 m long within SA038 is unknown. However, based on information from fisheries officers and Maritime New Zealand, Fisheries New Zealand has mapped long lining, bottom trawling and set netting by vessels less than 6 m as being within enclosed bays and within 3 nm of open coasts. Knowledge about species and

² Hillshade imagery produced by Geographx. Sourced from www.koordinates.com under CC-BY. <http://creativecommons.org/licenses/by/3.0/nz/>

³ The Catchmapper tool is used to model the estimated catch from landing data, and is the best information available from fisheries statistics. This informs our assessment, and particularly, Table 3.

information from commercial fishers and fishing companies, and Fishery Officers can also help to determine whether specific types of fishing are likely to occur in an area.

3 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/s of the coastal permit area.⁴ 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.

4 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.

5 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.

⁴ The “exclusion zone” used for commercial fishing methods assessed is the coastal permit area, with the exception (where applicable) of dredging, trawling and seining. In sheltered waters, buffers of 50m, 250m and 500m respectively are applied. In open water buffers of 75m, 500m and 500m respectively are applied.