

RESOURCE MANAGEMENT ACT 1991**Decision of Marlborough District Council**

RESOURCE CONSENT: U150081
APPLICANT: The New Zealand King Salmon
Company Limited
LOCATION: Te Pangu Bay, Tory Channel
SITE NUMBER: 8408

THIS IS THE DECISION ON THE APPLICATION FOR RESOURCE CONSENT:

New coastal permit (replacing MFL484, MPE466, U000237, U010142, U080726, U090841 and U130472) for:

- the marine farming of **Chinook Salmon** (*Oncorhynchus tshawytscha*) in Te Pangu Bay;
- occupying, in part, **21.092 hectares** of the coastal marine area with a variety of net pens designs (as stipulated in the consent);
- exclusive occupation of no more than **1.5 hectares** of the coastal marine area with marine farming structures (as stipulated in the consent);
- erecting, altering and removing structures within 21.092 hectares of the coastal marine area defined for site 8408 and associated seabed disturbances;
- allowing for the movement of 1.5 hectares of net pens within a **9.027 hectare** area (as specified in the consent);
- discharging contaminants in terms of natural fouling organisms and anti-fouling media to seawater arising from the activity of cleaning predator netting;
- fish production netting and floating structures at Te Pangu;
- installation and use of underwater lights in net pens at Te Pangu Bay for the purpose of reducing the level of maturation in Chinook Salmon;
- discharging up to **6000 tonnes** of salmon feed per annum within the consent area;
- using antifouling compounds on all seawater components of the marine farming operation;
- the stationing within the consent area (as specified in the consent) of a barge to be used for the storage and handling of feed, the storage of equipment ancillary to the marine farming activity and the accommodation of staff;
- discharging greywater from the barge to the coastal marine area; and
- taking and discharge of coastal water (associated with harvesting).

DECISION: **Granted**

RESOURCE CONSENT ISSUED:
Coastal Permit

Certificate of Resource Consent

Consent Holder: The New Zealand King Salmon Company Limited

Consent Type: Coastal Permit

Consent Number: U150081

Pursuant to sections 34A(1) and 104B and after having regard to Part 2 matters and sections 104 and 104D of the Resource Management Act 1991, the Marlborough District Council **grants** a new coastal permit for an existing salmon farm (replacing MFL484, MPE466, U000237, U010142, U080726, U090841 and U130472) for the marine farming of Chinook Salmon (*Oncorhynchus tshawytscha*) in Te Pangu Bay; to occupy, in part, 21.092 hectares of the coastal marine area with a variety of net pen designs (as stipulated in the consent); to exclusively occupy no more than 1.5 hectares of the coastal marine area with marine farming structures (as stipulated in the consent); to allow for the movement of the sea net pens within a 21.092 hectare area defined for site 8408; to discharge contaminants in terms of natural fouling organisms and anti-fouling media to seawater arising from the activity of cleaning predator netting; fish production netting and floating structures at Te Pangu; to install and use underwater lights in net pens at Te Pangu Bay for the purpose of reducing the level of maturation in Chinook Salmon; to discharge up to 6000 tonnes of salmon feed per annum within the consent area; to use antifouling compounds on all seawater components of the marine farming operation; to the stationing within the consent area (as specified in the consent) of a barge to be used for the storage and handling of feed, the storage of equipment ancillary to the marine farming activity and the accommodation of staff; to discharge greywater from the barge to the coastal marine area; and taking and discharge of coastal water (associated with harvesting), subject to the following conditions imposed under section 108 of the Resource Management Act 1991.

Conditions

General

1. This coastal permit shall expire on 1 February 2036.
2. Unless given effect to prior, this coastal permit shall lapse on 1 December 2016 (section 125(1) of the Resource Management Act 1991).
3. The consent holder shall ensure that, unless stipulated by another condition of this consent, all monitoring, reporting, timing of surveys, survey methodologies, data collection, data analysis and timing of reporting complies with the Best Management Practice guidelines for salmon farms in the Marlborough Sounds: Benthic environmental quality standards and monitoring protocol (Best Management Practice Guidelines: Benthic, as displayed on the Marlborough District Council website). All reports received from the consent holder shall be public record.

Note: In the event of a conflict between the above documents and a condition of this consent, the condition shall take precedence, unless specified otherwise in the condition.

4. Upon the expiration, cancellation or surrender of the coastal permit the consent holder shall remove all structures, net pens, barges, rafts, buoys, longlines, blocks, and all associated equipment from the site, and restore the seabed as far as is practicable to its original condition. If the consent holder fails to comply with this clause Council may arrange compliance on their behalf and at the consent holder's expense.

5. The consent holder shall ensure that any monitoring report (required through the Marine and Environmental Monitoring and Adaptive Management Plan (MEMAMP) prepared under Conditions 31 and 36 below) shall be submitted to Council no later than 1 May following sampling in that same year.
6. The Council may require an independent peer review of any monitoring or engineering report received from the consent holder. Such a peer review will be at the cost of the consent holder.
7. In accordance with the provisions of sections 128 and 129 of the Resource Management Act 1991 (or any provision in substitution thereof), the Council may, at the time(s) specified in Table 1 below, review the conditions of consent, by serving notice of its intention to do so for one or more of the purposes specified in Table 1:

Table 1: Purpose and Times of Potential Review of Conditions of this Consent

Purpose(s)	Time(s) of Service of Notice
To deal with any adverse effect on the environment which may arise for the commencement of the consent and which cannot be adequately avoided, remedied or mitigated by any term or condition incorporated within the consent, pursuant to the provisions of section 128(1)(a)(iii) of the Resource Management Act 1991.	On the first day of any month.
To require the consent holder to adopt the best practicable option to avoid, remedy or mitigate any adverse effect on the environment relating to the activity.	On any anniversary of the granting of this consent.
To incorporate the outcomes of the Best Management Practice Guidelines: Water Column.	Within 6 months from the Guideline being adopted in writing by the consent holder and the Marlborough District Council.
To review the decision for the farm to remain in the seaward net pen area in accordance with Condition 10.	90 days after receiving the report pursuant to Condition 10(c).
To review or replace the water quality conditions.	Within 30 days of receiving the MEMAMP pursuant to Condition 31 or within 6 months from the Best Management Practice Guidelines: Water Column being adopted in writing by the consent holder and the Marlborough District Council.
To review the benthic conditions.	Within 30 days of receiving the MEMAMP pursuant to Condition 36.

8. Upon the commencement of this resource consent, existing deemed coastal permits MFL484 and MPE466, and coastal permits U010142, U000237, U080726, U090841 and U130472 (in as far as they relate to salmon farming in Te Pangu Bay), shall be deemed to be surrendered and replaced by this consent U150081 and all of the conditions herein.

Occupancy

9. The occupancy shall be limited to the 21.092 hectare area illustrated on the plan attached to this consent and confined to the area specified within the schedule of New Zealand Transverse Mercator co-ordinates (**Appendix A**).

10. As volunteered by the consent holder, the maximum area of net pen surface structures (other than temporary net pens for transferring salmon to or from the marine farm or for harvest) shall be 1.5 hectares and shall be generally located either within the 1.5 hectare net pen area boundary labelled as 'inshore net pen area' or 'seaward net pen area' (as shown in **Appendix A**) as set out below:
 - a) Unless the process below is followed, the farm is to remain in the 'inshore net pen area'.
 - b) The consent holder may elect to shift that farm to the 'seaward net pen area'. It must give written notice of that election to the Harbour Master (who may exercise his powers referred to in Condition 24) and the Compliance Manager, Marlborough District Council. The consent holder may make this election only once during the term of consent.
 - c) 40 months after giving notice under Condition 10(b), the consent holder is to provide a report to the Compliance Manager, Marlborough District Council, which addresses the following matters for the 36 months period following the notice given in 10(b). The consent holder is to obtain assistance with preparing the report from appropriately experienced and qualified personnel.
 - i) The positive and adverse effects of the change in position of the farm on the benthic environment;
 - ii) The positive and adverse effects of the change in position of the farm on any reef monitored pursuant to Condition 36; and
 - iii) The positive and adverse effects of the change in position of the farm on the water column.
 - d) At the same time as providing the report contemplated by Condition 10(c), the consent holder may elect to shift the farm back to the 'inshore net pen area' by giving written notice of that election to the Harbour Master (who may exercise his powers referred to in Condition 24) and the Compliance Manager, Marlborough District Council. The consent holder may make this election only once during the term of consent.

Note: Marlborough District Council has the ability to review the consent conditions pursuant to section 128 once it has received the report. It may exercise that power because (among other reasons) it considers the report inadequate or it considers that a different outcome is desirable, having regard to the report.

11. The consented area may be exclusively occupied to the extent necessary to undertake the activity and ensure the safety and security of the marine farm and all its structures. In particular, the physical space occupied by all surface structures, including all net pens and the barge, may be exclusively occupied, and all mooring lines extending from the structures to the seabed and the anchoring systems within the seabed may exclusively occupy the physical space that they occupy, but not the water space above, between and below the lines (other than as necessary to ensure the safety and security of the lines and anchoring systems).

Noise

12. All marine farming shall be conducted so as to ensure that noise arising from such activities does not exceed the following noise limits when measured no closer than 250 metres from any marine farm surface structure:
- | | |
|--|--|
| 0700 hours - 2200 hours Monday to Friday
and 0700 hours - 1200 hours Saturday | 55 dBA L ₁₀ |
| On any day between 0700 hours and 2200 hours | No L _{max} limit |
| At all other times including any public holiday | 45 dBA L ₁₀ and 75 dBA L _{max} |
13. Noise shall be measured in accordance with NZS 6801:2008. Noise levels shall be assessed in accordance with NZS 6802:2008. Any construction activities will meet standards specified in NZS 6803:1999.
14. The following activities shall be exempt from the above noise standard:
- a) Noise generated by navigational aids, safety signals, warning devices or emergency pressure relief valves;
 - b) Noise generated by emergency work arising from the need to protect life or limb or prevent loss or serious damage to property or minimise or prevent environmental damage; or
 - c) Noise ordinarily generated by the arrival and departure of vessels servicing the marine farm.
15. As volunteered by the consent holder, the use of outdoor radios or similar external speakers on the marine farm is prohibited.

Structures

16. The structures shall be limited to moorings, anchors, ropes, droppers, net pens and barges, floats and lights and other necessary navigational aids associated with the farming of the approved species within the boundaries of the consent area. All structures shall be situated and secured so as to remain within the boundaries of the consent area at all times.
17. One barge of maximum size 280 square metres in area and 7.5 metres in height (above the water) shall be situated and maintained in the position adjacent to the east end of the net pens on the attached plan (**Appendix A**) at all times. All parts of the barge (including its roof and ancillary features, including all associated parts such as the curtains, blinds or shutters) shall be finished in non-reflective material and painted in a dark colour with a reflectivity value between 5% to 30%. Curtains, blinds or shutters are to be provided for all windows.
18. Net pens and exterior above water metal structures (other than surface walkways) are to be painted or finished in dark recessive colours. Structures in existence at the date of granting this consent are able to remain until they need replacing or refurbishment.
19. Black or similar dark colours are to be used for predator nets, grower nets and bird netting. Nets in existence at the date of granting this consent are able to remain until they need replacing.
20. The consent holder shall ensure that the submerged artificial lighting set up in each net pen will not be comprised of any more than the luminance of nine 1000 watt halide underwater lights.

21. The consent holder shall maintain all structures to ensure that they are restrained, secure and in working order at all times so as not to create a navigational hazard and take whatever steps are reasonably necessary to retrieve any non-biodegradable debris lost in or from the permit area.
22. Any mooring system used to secure the structures shall be designed and certified by a suitably qualified chartered professional engineer with appropriate expertise in marine engineering. An engineer's certificate shall be provided to the Compliance Manager, Marlborough District Council, at least 1 month prior to any significant changes being made to the design or operation of the mooring system.
23. The consent holder shall ensure that no mooring line is within 4.0 metres of the surface of the water beyond 20.0 metres distance from any part of the surface structures.
24. The placement of marine farm lighting and marking shall be approved by the Harbour Master under his Maritime Delegation from the Director of Maritime New Zealand pursuant to Sections 200, 444(2) and 444(4) of the Maritime Transport Act 1994.
25. The sea pens and barge shall carry the name of the consent holder and the site number issued by the Marlborough District Council (#8408) displayed in bold clear letters in such a manner that they can be clearly read from a distance of 10.0 metres.
26. The consent holder shall prepare, to the satisfaction of the Harbour Master, a safety management plan and provide it to the Marlborough District Council within 6 months of the commencement of this consent. The safety management plan shall include but not be limited to:
 - a) Design plan for the layout and structure of the marine farm;
 - b) A maintenance plan, suitable for the moorings, navigational lighting and associated equipment (i.e. radar reflectors, reflective tape, etc), together with a record system of all maintenance undertaken. This is to be made available for checking by the Harbour Master at any time; and
 - c) A mooring design plan for the size of the structure and the position intended with respect to water depth, tides and currents, sea and swell conditions and seabed composition. Proof of fit-for-purpose rests with the consent holder.

Discharge

27. The maximum annual tonnage of feed that may be discharged into the coastal marine area from the marine farm shall not exceed 5500 metric tonnes when the farm is located in the 'inshore net pen area' and shall not exceed 6000 tonnes when the farm is located in the 'seaward net pen area'.
28. The consent holder shall establish and maintain a feed log detailing monthly volumes of feed discharge and the location of the discharge. This shall be provided to the Compliance Manager, Marlborough District Council, on request.
29. The maximum greywater discharge shall not exceed 1.0 cubic metre per day. The consent holder shall ensure that an appropriate system is operated at the marine farm to quantify the volume of greywater discharged. It will be appropriate to measure the volume discharged by proxy (i.e. by measuring the amount of fresh potable water which is brought onto the barge and assuming it is all discharged via the greywater system). The results shall be provided to the Compliance Manager, Marlborough District Council, on request.

Water Quality

30. The marine farm shall be operated at all times in such a way as to achieve the following water quality objectives in the water column:
- a) To not cause a change in the typical seasonal patterns of phytoplankton community structure (i.e. diatoms vs dinoflagellates) and with no increased frequency of harmful algal blooms (HAB's);
 - b) To not cause reduction in dissolved oxygen concentrations to levels that are potentially harmful to marine biota;
 - c) To not cause elevation of nutrient concentrations outside the confines of established natural variation for the location and time of year, beyond 250 metres from the edge of the net pens;
 - d) To not cause a statistically significant shift, beyond that which is likely to occur naturally, from an oligotrophic/mesotrophic state towards a eutrophic state;
 - e) To not cause an obvious or noxious build-up of macroalgae (e.g. sea lettuce) biomass.
31. A MEMAMP is to be provided to the Compliance Manager, Marlborough District Council, not later than 15 December each year for the term of the consent and shall be sufficient to provide reliable data on water column effects. The plan is to be prepared and certified by an independent, suitably qualified, and suitably experienced water quality scientist. That plan is to identify:
- a) The water column monitoring stations;
 - b) The methods (including the processes to be followed) to be used in assessing water quality;
 - c) The environmental parameters to be monitored; and
 - d) The initial water quality standards (WQS) shall be as follows:
 - i) Concentrations of Chlorophyll-a shall not exceed 3.5mg per m⁻³.
 - ii) Concentrations of Total Nitrogen shall not exceed 300mg per m⁻³.
 - iii) Concentrations of dissolved oxygen shall not decline below 70% saturation within 250 metres of the edge of the net pens and 90% saturation beyond 250 metres from the edge of the net pens.

Note: On the third anniversary of granting this consent, the WQS will be comprehensively reviewed by an independent, suitably qualified, and suitably experienced water quality scientist.

The Marlborough District Council has the ability to review the consent conditions pursuant to section 128 once it has received the plan. It may exercise that power because (among other reasons) it considers the plan inadequate or it considers that a different outcome is desirable.

32. In the MEMAMP a hierarchy of responses to potential exceedances of the WQS shall be specified, including:
- a) Notification to the Compliance Manager, Marlborough District Council, within 2 days of the identification of an exceedance of a WQS standard;

- b) A first level response requiring further monitoring and/or analysis to determine whether the operation of the marine farm is causing the relevant WQS not to be achieved. In that respect:
- i) A preliminary report (prepared by a suitably qualified and experience marine scientist) shall be provide to the Compliance Manager, Marlborough District Council, no later than 20 working days from the date when the consent holder is given notice of the exceedance;
 - ii) The prelliminary report must, giving sound scientific reasons, state which of the following actions will occur:
 - Further monitoring and a further report within a defined timeframe;
 - No further action;
 - Where the farm is shown to be the cause of the exceedance, a second level response;
- c) A second level response requiring a plan of action as soon as practicable, with clear timeframes to reduce effects on the water column and achieve full compliance with the WQS, through reduced stocking on the marine farm following the next harvest of salmon on the marine farm.

Benthic Standards

33. The marine farm shall be operated at all times in such a way as to achieve the following average Benthic Quality Standards (BQS) in the seabed for each monitoring station:
- a) The Enrichment Stage (ES) score below the net pens, i.e., the Zone of Maximal Effect (ZME), measured in accordance with the Best Management Practice Guidelines: Benthic, as displayed on the Marlborough District Council website, shall not exceed 5.0.
 - b) That no more than one replicate core with no taxa is permitted in the ZME.
 - c) That no obvious spontaneous out-gassing of hydrogen sulphide and methane is permitted in the ZME.
 - d) That the coverage of the *Beggiatoa* bacteria may be not greater than localised and patchy in distribution in the ZME.
 - e) The ES score at the Outer Limit of Effect (OLE), measured in accordance with the Best Management Practice Guidelines: Benthic, as displayed on the Marlborough District Council website, shall be less than 3.0 at all times.

Note: The Benthic Quality Standards (BQS) are referred to as Environmental Quality Standards (EQS) in the Best Management Practice Guidelines: Benthic. The change of terminology reflects the scope of the Best Management Practice Guidelines: Benthic.

34. Copper and Zinc levels measured in the ZME shall not exceed the Australian and New Zealand Environment and Conservation Council (ANZECC) (or any revised or replacement New Zealand standard) Interim Sediment Quality Guidelines High Level (ISQG-High) for the total recoverable fraction of these metals. For compliance purposes, the decision tree in the Best Management Practice Guidelines: Benthic shall be followed.

35. The ZME is to be sampled at the edge of any net pens used in the previous 12 months and the OLE shall not exceed 600 metres from the edge of the net pens in either longshore direction.
36. A MEMAMP is to be provided to the Compliance Manager, Marlborough District Council, no later than 15 December each year for the term of the consent which will measure compliance with the BQS. That plan is to be prepared and certified by an independent, suitably qualified, and suitably experienced marine scientist. That plan will identify:
- a) The benthic monitoring stations;
 - b) The timing of the monitoring of the ZME and OLE;
 - c) The environmental parameters to be monitored;
 - d) The monitoring proposed for the identified reef complexes in the vicinity of the site, consistent with previous monitoring of reef habitats in the area, including identifying any long-term and short-term changes in community structure and health;
 - e) A site-specific account of any recommendations or management responses from the previous year; and
 - f) Detailed sampling methods.

The MEMAMP is to be consistent with the Best Management Practice Guidelines: Benthic.

Note: The Marlborough District Council has the ability to review the consent conditions pursuant to section 128 once it has received the plan. It may exercise that power because (among other reasons) it considers the plan to be inadequate or it considers that a different outcome is desirable.

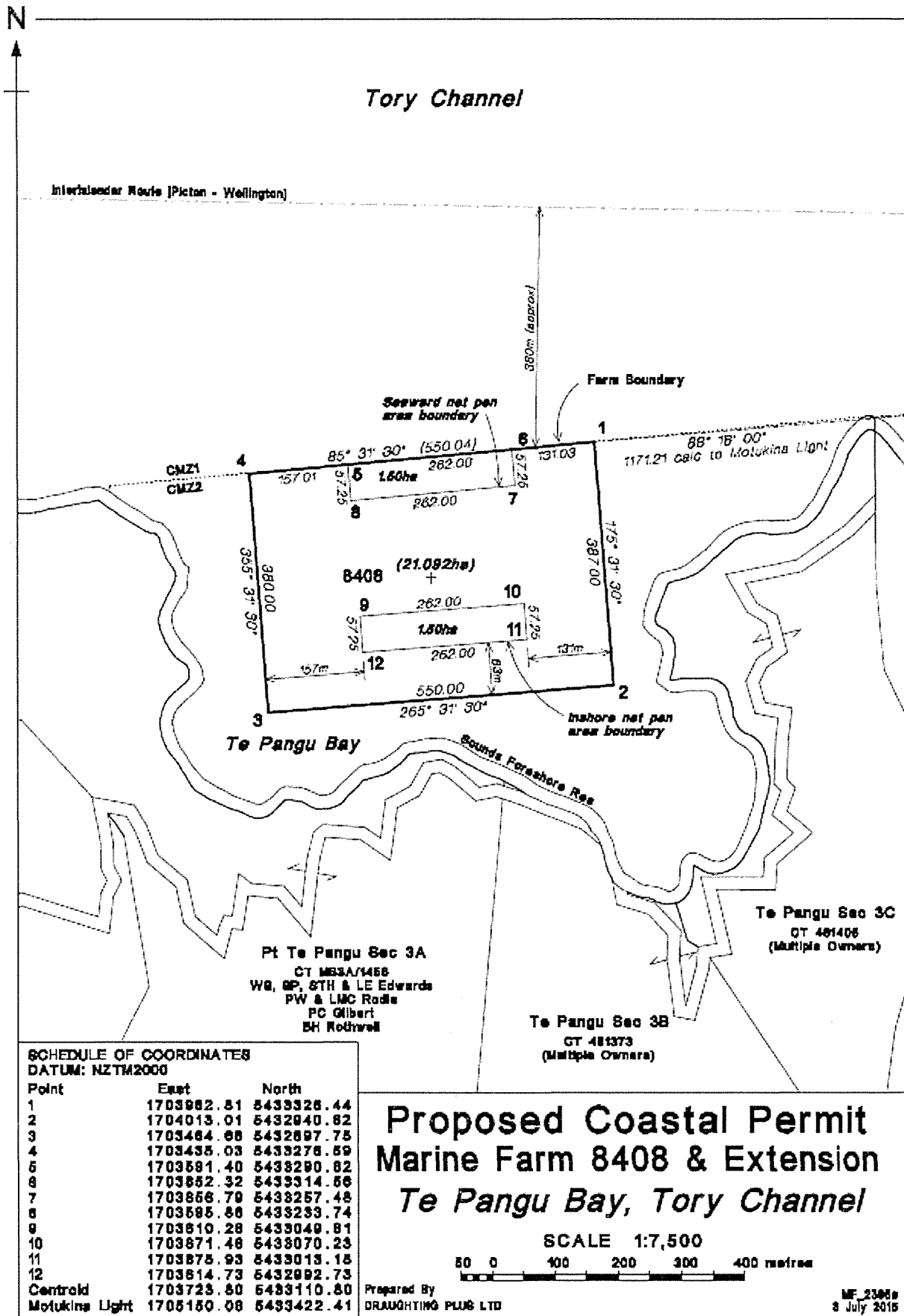
37. For compliance purposes, the decision tree(s) in Best Management Practice Guidelines: Benthic shall be followed.
38. In the event that the lower 95% confidence level for overall ES is greater than 5.6 then the consent holder must:
- a) Destock within 4 months from the date the non-compliance notice was received by the consent holder (or 5 months where retesting has occurred), or at the end of the production cycle, whichever is the later; and
 - b) Not introduce new stock to the farm until the farm is within the relevant BQS; and
 - c) Ensure at the time of restocking that the stocking plan is appropriate to allow the site to meet the required BQS in future surveys.

Note: A production cycle takes up to 18 months from the point when fish enter seawater through to when the last fish is harvested. In practice the non-compliance notice will most likely be received during the production cycle. The Best Management Practice Guidelines: Benthic considered this flexibility necessary because there may be situations where the 4 month requirement is difficult to meet without farm-wide culling of stock.

Advice Notes

1. The consent holder may in the future be required to pay coastal occupation charges if they are imposed as a result of the current review of Council's resource management plans.
2. Pursuant to section 36 of the Resource Management Act 1991 and the Marlborough District Council's schedule of fees, the consent holder will be responsible for all actual and reasonable costs associated with the administration and monitoring of this resource consent.
3. The Marlborough District Council is required by section 116A of the Resource Management Act 1991 to apply for an Aquaculture Decision from the CEO of the Ministry for Primary Industries after the appeal period is completed or all appeals are determined. The UAE is an assessment by the Ministry of the undue adverse effects on customary, recreational and non-QMS commercial fisheries resources. Based on the Ministry's decision, the coastal permit holder may be able to establish the activity, or the Council may have to modify, or even reverse, its original decision.

Appendix A



WRE
Initial

Reasons

Proposal

1. A new coastal permit application was lodged by the New Zealand King Salmon Company Limited on 30 January 2015. The proposal is to replace all the existing aquaculture permissions that pertain to the salmon farming activity within Te Pangu (MFL484, MPE466, U000237, U010142, U080726, U090841 and U130472). Specifically, the applicant seeks resource consent for:
 - the marine farming of Chinook Salmon (*Oncorhynchus tshawytscha*) in Te Pangu Bay;
 - occupying, in part, 21.092 hectares of the coastal marine area with a variety of net pens designs (as stipulated in the consent);
 - exclusive occupation of no more than 1.5 hectares of the coastal marine area with marine farming structures (as stipulated in the consent);
 - erecting, altering and removing structures within 21.092 hectares of the coastal marine area defined for site 8408 and associated seabed disturbances;
 - allowing for the movement of 1.5 hectares of net pens within a 9.027 hectare area (as specified in the consent);
 - discharging contaminants in terms of natural fouling organisms and anti-fouling media to seawater arising from the activity of cleaning predator netting;
 - fish production netting and floating structures at Te Pangu;
 - installation and use of underwater lights in net pens at Te Pangu Bay for the purpose of reducing the level of maturation in Chinook Salmon;
 - discharging up to 6000 tonnes of salmon feed per annum within the consent area;
 - using antifouling compounds on all seawater components of the marine farming operation;
 - the stationing within the consent area (as specified in the consent) of a barge to be used for the storage and handling of feed, the storage of equipment ancillary to the marine farming activity and the accommodation of staff;
 - discharging greywater from the barge to the coastal marine area; and
 - taking and discharge of coastal water (associated with harvesting).

Background

2. Council files show that the Te Pangu fin fish farm was first used in 1990 by Regal Salmon Limited for the experimental growing of smelt. Two 'super cages' were installed but troubles arose with securing the structures in place. Upon the development of improved anchoring systems, Regal Salmon sought (and was granted) a marine farming licence for the farming of Chinook Salmon and Snapper in 1992 (MFL484).

3. In 2001 a consent was granted (U010142) to increase the surface area of salmon farming structures to 1.5 hectares of the licensed salmon farm area and to discharge up to 1,838,450 kilograms of salmon feed per year. The discharge was increased in 2004 (U040813) and 2009 (U090841) to a current consent discharge of 6,000 tonnes per year, subject to conditions. This consent expired on 31 July 2015.
4. A coastal permit (U080726) was granted on 15 August 2008 allowing for the discharge of contaminants, in terms of natural fouling organisms and anti-fouling media to seawater, arising from the activity of cleaning predator netting, fish production netting and floating structures. This consent is due to expire on 31 December 2024.
5. In 2010 New Zealand King Salmon Limited lodged a consent (U100656) to install and use, on a trial basis, underwater lights in one net pen only on the Te Pangu Bay fin fish farm for the purpose of reducing the level of maturation in Chinook Salmon. This trial was completed in October 2011 and a subsequent application (U110410), granted on 14 September 2011, allowed for three net pens to be lit for a 2 year period ending 31 December 2013. Additional consents (U120226 and U130472) were granted to allow for an additional five net pens to be lit for extended periods of time. The most recent (U130472) expired on 31 July 2015.

Description of the Receiving Environment

6. Te Pangu Bay is a small bay in the middle reaches of Tory Channel. Te Pangu Bay is approximately 20 kilometres by sea from Picton in an easterly direction. The bay itself has a coastline length of approximately 2.6 kilometres and covers an area of sea of approximately 48 hectares.
7. The subject marine farm is located immediately offshore of a small promontory in the centre of the bay.
8. The surrounding land is predominantly covered in regenerating bush. There is only one dwelling located in the bay on the western shore which is on a title occupying all the land on the western half of the bay. The eastern half of the bay is comprised in two titles, both being undeveloped. The larger of the two is Maori land.

Planning Provisions

9. Resource consent is required for the erection of structures, occupation of public space, the activity of marine farming and the discharge of contaminants to the coastal area as these activities are not expressly allowed by a national environmental standard or rule in a regional coastal plan.
10. The subject marine farm is located within the Coastal Marine 2 zone of the Marlborough Sounds Resource Management Plan (the Plan) (Volume 3).
11. Marine farms are defined in Chapter 25 as any form of aquaculture characterised by the use of surface and/or subsurface structures located in the coastal marine area. The definition therefore only loosely relates to the activity rather than the structure.
12. The Plan does not provide for the harvesting of marine farming produce from marine farms authorised by a coastal permit applied for after 1 August 1996, as a permitted activity. To provide for such would be a discretionary activity by virtue of Rule 35.4.

13. Plan Change 24 inserted a new definition of '*marine farming*' to broadly cover the activity of aquaculture, including the harvest of product on the marine farm. While this insertion covers the various aspects of aquaculture activities its only recent inclusion into the Plan was only in respect of marine farming within the Coastal Marine 3 zone.
14. The taking and discharge of coastal water, within 200 metres of Mean Low Water Springs (MLWS), and not exceeding 3000 cubic metres per day, is provided for as a controlled activity by Rule 35.2.4
15. The disturbance of the seabed by anchor blocks is not a permitted activity and falls to a discretionary activity under Rule 35.4.2.5.
16. Rules 35.4.2.2 and 35.4.2.7 regard the (general) occupation of the coastal marine area. Both provide a status of discretionary. The pen structures, barge and other associated structures to facilitate finfish farming are considered to be captured by this rule.
17. The most seaward boundary would be located more than 200 metres from MLWS. Marine farms with offshore boundaries more than 200 metres from MLWS are non-complying activities by virtue of Rule 35.5.
18. The use of underwater lights is not provided for as a permitted, controlled or discretionary activity. Rule 35.3 provides for structures and lighting systems for marine farms previously authorised as a restricted discretionary activity. Upon analysis, this rule relates to navigational lighting. The activity and structures are therefore captured by the non-complying activity standard under Rule 35.5.
19. Rule 35.4.2.11 provide for general discharges to water as a discretionary activity. It is considered that this rule applies to the discharge of finfish feed, greywater discharge and any potential discharge of antifouling to the coastal marine area.
20. Given that each component is integral to the establishment and operation of a salmon farm, it is appropriate to bundle the activities together and assess them under the most restrictive criteria, in this case being a **non-complying** activity.

Notification and Affected Parties

21. The application was publicly notified on 23 February 2015 with the submission period ending 23 March 2015. A total of four submissions were received. Two of the submitters were neutral and did not want to be heard. The remaining two submitters were opposed but, after subsequent discussions with the applicant, both removed their submissions. I am satisfied that the matters of concern can be addressed through conditions and therefore a hearing is unnecessary to determine the application.

Assessment of Effects

22. In terms of the considerations required by section 104(1)(a) of the Resource Management Act 1991 (the Act), the proposed salmon farm and associated structures and activities are concluded to be likely to have acceptable adverse effects on the existing natural character, landscape values, maritime safety, recreational values and amenity values of the locality. In reaching this conclusion it is assessed that the location and orientation of the structures would not unduly detract from main routes of navigation, casual anchorages or existing moorings and structures. Additionally, the operation of the activity is to be consistent with industry best practice guidelines (via conditions). Although visually the structures are conspicuous, the values of the surrounding environment will not be compromised.

Relevant Statutory and Plan Provisions

23. The New Zealand Coastal Policy Statement 2010 sets out policies to achieve the purpose of the Act in relation to the coastal environment of New Zealand. The principal policies that relate to marine farms concern matters of sustainability and natural character. Specifically, Policy 8 seeks to recognise the significant existing and potential contribution of aquaculture to the social, economic and cultural wellbeing of people and communities, while Policy 13 seeks to preserve natural character of the coastal marine area. In this case, a salmon farming activity has been present for a significant amount of time at the site. Whilst the removal of a salmon farm from this location would increase the natural character value of the bay, the increase would only be marginal given the modification already present (commercial forestry, wilding pines, foreshore structures and small scale residential activity). The proposal is considered minor and will not have a greater adverse effect on the surrounding natural character.
24. The direction of the Regional Policy Statement is given effect to through the objectives and policies of the Plan which are described below.
25. The objectives and policies of the Plan relating to the coastal marine area are included in Chapter 9.0. Objective 9.2.14 seeks to accommodate appropriate activities in the coastal marine area whilst avoiding, remedying or mitigating adverse effects of those activities. This is qualified by Policies 9.2.1.1.1, 9.2.1.1.2 and 9.2.1.1.3. Policy 9.2.1.1.1 seeks to protect amenity, cultural, aesthetic, safety and public access values, while Policy 9.2.1.1.2 seeks to avoid adverse effects, as far as practicable, from use or development in the coastal environment. Policy 9.2.1.1.3 seeks to minimise exclusive occupation of public space.
26. In the context of this application, marine farming has occurred at the site and in the wider area for in excess of 20 years. I am of the opinion that the continued occupation and operation of a salmon farm (with its proposed modifications) will not compromise the amenity and character of the area.
27. Objective 9.4.1.1 seeks the protection of the coastal environment by avoiding, remedying or mitigating any adverse effects of activities that alter the foreshore or seabed. Policies 9.4.1.1.7 and 9.4.1.1.8 specifically deal with marine farming by enabling revalidation of existing farms and boundary changes. While not providing explicit guidance, the Plan recognises and provides for the continuation of and adjustments to existing marine farming activities as a controlled activity. In this case, the proposed adjustments are to reduce the ecological impacts of the activity on the marine environment.
28. In terms of the considerations required by section 104(1)(b) of the Act, it is concluded that the use of public space, subject to conditions, would not be inconsistent with the relevant objectives and policies of the Plan provisions.

Section 104D - Particular Restrictions for Non-complying Activities

29. The effects of this proposal have been assessed as being no more than minor. In addition, the proposal has been assessed against the relevant provisions of the statutory documents and found to be consistent with those outcomes sought. Therefore the proposal passes both limbs of the section 104D test and it is within the Marlborough District Council's jurisdiction to grant this application.

Consideration of Applications

- 30. Having considered the matters of national importance, other matters and principles of the Treaty of Waitangi as required by Part 2 of the Act, it is concluded that the sole purpose of the Act would be better achieved through a grant of resource consent, subject to the conditions specified.
- 31. It is considered that the conditions imposed will ensure that the proposal achieves sustainable management through striking a balance between development and protection of the subject resource in light of those issues that the community has identified as contributing to their social, economic and culture wellbeing, their health and safety, and while ensuring the long term potential and capacity of the resource.

Consent Duration and Lapse Date

- 32. Section 123 of the Act requires that every coastal permit have an expiry date. Both the Act (section 123A) and Plan (Rule 35.2.5.2(a)) provide for a term of 20 years, being until 1 January 2036. I believe this term is appropriate. Upon expiry of this resource consent a new application will be required to be made and will be determined in accordance with the legislation and policies in place at that time.
- 33. In terms of the lapsing of the consent, the default term under the Act for aquaculture coastal permits is 3 years. In this case, the majority of structures are already in place and, upon commencement, this consent replaces all previous permissions. A lapse date then may seem superfluous but an additional process is required before the consent can commence (section 116A of the Act). This process may endorse, modify or otherwise overturn the decision of this Council. It is therefore appropriate to provide for a short lapse period to allow this additional process to be completed. A period of 12 months is considered appropriate to provide for the additional processes.

Recommended for approval:



.....
Bruno Brosnan
Resource Management Officer

Approved:



.....
Anna Eatherley
Marlborough District Council Manager Resource Consents

26th January 2016
Date

Additional Important Information for Resource Consent Holders

The following information provided in this information sheet is a guide to the legal rights of applicants and submitters.

If you want to discuss matters raised in this information sheet you are welcome to contact Council. However, if you require specific advice you should contact an independent professional and refer to the relevant sections of the Resource Management Act 1991.

Commencement of a Resource Consent

Refer to section 116 of the Resource Management Act 1991

- Where no submissions were lodged or any submissions were withdrawn, a resource consent commences, (and may be actioned) on the date of the receipt of the decision.
- Where submissions were lodged to the application, and not withdrawn, the resource consent commences once the time for lodging an appeal has passed, provided no appeals have been received, or when all appeals have been resolved or withdrawn.
- If the resource consent was for activities controlled by the district plan on reclaimed land or land in the coastal marine area, or a restricted activity; then there are specific provisions regarding the commencement of resource consent. These provisions are outlined in section 116 of the Resource Management Act 1991.

Lapsing

Refer to section 125 of the Resource Management Act 1991

- If no lapse date is specified in the conditions of this consent, the consent will lapse 5 years after the decision date, unless the consent has been actioned (given effect to).

Conditions of Resource Consent

Refer to section 108 of the Resource Management Act 1991

- If conditions are imposed these will be set out in the decision document.
- Please read your consent and ensure that you fully understand any conditions.
- If you have concerns with any condition(s), in the first instance you should discuss your concerns with Council, although an option may be to lodge an appeal or objection.
- It is a legal requirement that there be **compliance with** all conditions.
- If any conditions are contravened it may be that the Council or members of the public will initiate enforcement action (outlined in Part XII of the Resource Management Act 1991).

Change or Cancellation of Conditions of Resource Consent

Refer to section 127 of the Resource Management Act 1991

- The consent holder may apply to the Council to change or cancel conditions of the consent, except a condition specifying duration.

Monitoring Fees

Refer to section 36 of the Resource Management Act 1991 and the Council's Schedule of Fees

- The consent holder will be charged for actual and reasonable costs associated with the monitoring of this consent.

Objections

Refer to section 357 of the Resource Management Act 1991

- In certain circumstances the applicant has the right to object to the Council's decision.
- Any objection shall be made in **writing** and will need to outline the reasons for the objection.
- An objection needs to be lodged with the Council within **15 working days** of the Council's decision being received by you or your agent.

Appeals

Refer to Form 16 and sections 120 and 121 of the Resource Management Act 1991

- The applicant and any submitters have the right to appeal the whole or any part of the Council's decision.
- A notice of appeal must be lodged with the Environment Court and the Council, within **15 working days** of the Council's decision being received (or received by your agent on your behalf). A copy also needs to be served on the applicant and submitters to the application within 5 working days of the notice being lodged with the Environment Court.

Before lodging an objection or an appeal it is recommended that you seek professional advice.