



13 November 2019

**AQUACULTURE DECISION REPORT**  
**PIGEON BAY AQUACULTURE LIMITED,**  
**COASTAL PERMIT CRC175136, BIG BAY, BANKS**  
**PENINSULA**

**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 CRC175136 will not have an undue adverse effect on the following fishing sectors:

1. *recreational* - for the reasons set out in this report and summarised in paragraph 18;
2. *customary* - for the reasons set out in this report and summarised in paragraph 18;
3. *commercial* - for the reasons set out in this report and summarised in paragraph 42.

**AQUACULTURE DECISION REQUEST DETAILS**

Regional Council:	Canterbury Regional Council ( <b>CRC</b> )
Date of Request:	18 June 2019
Coastal Permit Applicant:	Pigeon Bay Aquaculture Limited
Location of marine farm site:	Big Bay, Banks Peninsula
Size of farm:	To shift and extend an existing 6.81 hectares (ha) marine farm (MF 689), adding 3.09 ha of new space and surrendering 2.04 ha giving a total new coastal permit area of 7.86 ha.
Species listed on consent:	Green shell mussel ( <i>Perna canaliculus</i> ) and blue shell mussel ( <i>Mytilus galloprovincialis</i> ).
Farm structures:	Eight additional conventional longlines

<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 and structures

3 Coastal permit CRC175136 (proposed site) applies to an area in Big Bay, which is the eastern arm of Double Bay on the northern coast of Banks Peninsula (Map 1). The proposed site occupies 3.09 ha of new space, extending the existing 6.81 ha marine farm (MF 689) to the east and south. A 2.04 ha area of MF 689 has been surrendered as it is too close to shore. The total consented area would become 7.86 ha.



**Map 1<sup>2</sup>: Location of the proposed site (area authorised by coastal permit CRC175136) at Big Bay in Banks Peninsula.**

4 The proposed site will contain 8 longlines in addition to the existing 8 longlines. Site and structures maps can be found in Appendix A.

### Environment

5 An independent benthic survey of the proposed site in September 2015 found a muddy sand habitat populated by species common in shallow subtidal soft sediment in the Canterbury region (Brown, 2015).

<sup>2</sup> Disclaimer: Maps 1 and 2 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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6 No benthic features of special interest were found. No rocky substratum was observed by sonar survey. No species or communities of fisheries value were observed. The effects of the existing mussel farming activity on the benthic habitat appeared to be typical.

### *Input from stakeholders*

7 Fisheries New Zealand published the coastal permit application on its website on 10 July 2017, with submissions closing on 4 August 2017. This gave persons and organisations potentially affected by the proposed aquaculture activities an opportunity to provide information on their fishing activities in the area of coastal permit CRC175136.

8 Fisheries New Zealand did not receive any submissions in response to the consultation.

9 Submissions to CRC on the application for a coastal permit did not mention fishing related issues

### **STATUTORY CONTEXT**

10 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).

11 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 fishing.<sup>3</sup> 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.

12 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).

13 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

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<sup>3</sup> 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.
- 14 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.
- 15 Appendices B and C have further information on statutory context and customary fishing respectively.

## **ASSESSMENT**

16 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.

17 This assessment relates to the 3.09 ha of new marine farming space authorised by coastal permit CRC175136.

### ***Recreational and customary fishing***

18 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:

- negligible recreational and customary fishing is likely to occur at the proposed site;
  - anchored rod/line fishing could still occur when the proposed structures are installed;
  - there are other recreational and customary fishing areas available in northern Banks Peninsula and the wider Canterbury coast;
  - occupation of the proposed site will result in 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 negligible; 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.
- 19 The above conclusions were reached following the more detailed assessment below.

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

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

#### ***Recreational Fishing***

21 I consider the area of the proposed site is located where negligible recreational fishing occurs. Methods that could possibly be used include mobile and stationary rod/line fishing from a boat, and perhaps longlining. Species which could be caught include red cod, kahawai, rig and barracouta.

22 Information available about recreational fishing in northern Banks Peninsula includes previous submissions on other marine farming applications in the region and an old recreational fishing survey in 1996 (Fisher and Bradford, 1999). Although the survey data is old the types of fishing will not have changed much. There have been no surveys of recreational fishing in the Banks Peninsula region using aerial mapping of fishing location, which is a useful source of information in other aquaculture areas.<sup>4</sup>

23 Very little fishing has been reported in northern Banks Peninsula from Amateur Charter Vessels<sup>5</sup> (ACV).

24 The proposed site is within an area prohibited for set netting. Set netting is prohibited offshore to 4 nautical miles along the east coast of the South Island from Clarence Point (Marlborough) to Slope Point (Southland) to protect Hector's and Maui dolphins.

25 Table 1 summarises my assessment of the main methods used and species likely to be caught by recreational fishers at the proposed site based on recreational fishing surveys, past submissions, the coastal permit ecological assessment (Brown, 2015), ACV data, and anecdotal sources.

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<sup>4</sup> 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.

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

**Table 1: Recreational fishing methods used and species likely to be caught and targeted at the area of coastal permit CRC175136 based on the available information.**

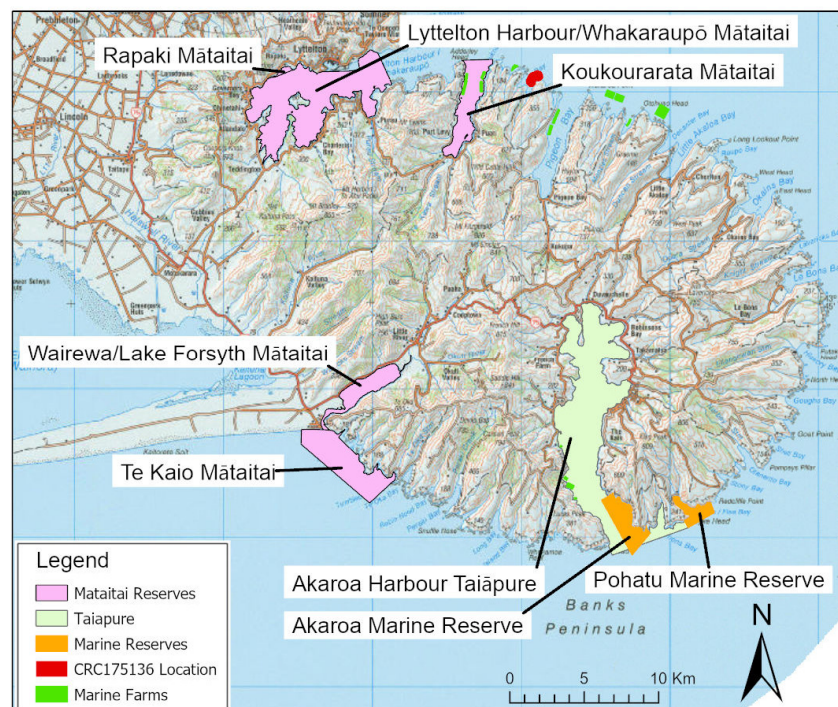
	1996 diary survey (top three methods)	ACV data	Submissions	Other information	My assessment
<b>Methods used</b>	Shore-based rod/handline (43% of trips), rod/handline from private boat (30% of trips), set/gill net (14% of trips).	Very little ACV data for northern Banks Peninsula. The nearest record of ACV fishing is 6 km away from the proposed site.	Set netting, surf-casting and rod/line fishing from boats (eg, trolling, anchored fishing) are used in nearby Port Levy.	Kayak fishing (particularly around mussel farms), surf casting from beaches and some rock fishing occur at Banks Peninsula according to fishing sites online There is no public access to the coastline of Double Bay. Fishing access to the proposed site is by boat launched in Pigeon Bay, Port Levy or Lyttelton Harbour, a minimum on 8 km travel by sea.  There is nothing to dredge for at this site. Set netting is prohibited to protect Hector's dophins.	Stationary and mobile rod/line methods, from a private boat are likely the main used methods at the site. but other boat-based methods that target finfish (eg, long lining, potting) may also be used.  Hand gathering and diving will not occur in the depth and type of habitat at this site.  Public access to, and distance offshore from, the adjacent shore is limited. Shore-based fishing (eg, by rod/line, drag netting or flatfish spearing) is unlikely.
<b>Species caught</b>	Red cod (29% of trips), flatfish (26% of trips), yellow-eyed mullet (7% of trips).	Nil.	Kahawai, red cod, rig, barracouta, wrasse, leather jacket, moki and butterfish, mussels and paua are the most commonly caught species at Port Levy.	Banks Peninsula is fished for kingfish, moki, kahawai, red cod, spiny dogfish, skate, elephant fish, rig and other shark species.  There may be paua and mussels on nearby reefs but not at the proposed site.	Red cod, kahawai, rig, other sharks and barracouta are the species most likely to be taken by any fishing at the proposed site. Leatherjacket, kingfish and wrasse may be attracted to the existing mussel lines and be available for fishing  It is unlikely that blue cod, moki, or butterfish would be found in the habitat of the proposed site.

## Customary Fishing

26 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, or perhaps longlining. The main species targeted in this area are likely to be red cod, kahawai, or shark species. There is no information to suggest the proposed site is especially important for customary fishing

27 Available information on customary fishing is primarily qualitative information from submissions and quantitative catch information from customary authorisations.<sup>6</sup> Further details on specific customary fishing information can be found in Appendix C.

20 There are five mātaítai reserves and one taiāpure at Banks Peninsula covering areas of particular importance for customary fishing (Map 2). Three of these customary management areas (the Rapaki, Lyttelton, and Koukourarata mātaítai reserves) are on the northern side of Banks Peninsula near the proposed site.



**Map 2: Customary management areas and marine reserves at Banks Peninsula.**

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

<sup>6</sup> 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. Methods used are not reported. Customary authorisations issued under regulations 50 and 51 of the Amateur Regulations do not need to be routinely reported.

**Table 2: Customary fishing methods used and species caught or targeted at the area of coastal permit CRC175136<sup>7</sup>**

	Source of information		
	Customary authorisations for South Island	Other information	My assessment
<b>Methods used</b>	Methods not specified	Set netting, rod/line (eg, trolling, anchored fishing), diving (spear fishing), hand gathering, drag netting and potting are used at Port Levy.	Stationary and mobile rod/line methods, from a private boat are likely the main used methods at the site. Other boat-based methods that target finfish (eg, long lining, potting) may also be used.  Hand gathering and diving will not occur in the depth and type of habitat at this site.  Public access to, and distance offshore from, the adjacent shore is limited so shore-based fishing (eg, by rod/line, drag netting or flatfish spearing) is unlikely.
<b>Species caught or targeted</b>	A wide range of species are reported in customary authorisations for the South Island but fished areas are not specified. All the species listed for recreational fishing at this site in Table 1 are also taken by customary authorisations.	Kahawai, red cod, rig, barracouta, wrasse, leather jacket, moki and butterfish, flounder, rock lobster, crabs, mussels, cockles, rock oysters and paua are the most commonly caught species at Port Levy  There is no reef at the proposed site so paua, mussels, moki, butterfish, and rock lobster will not be present and oysters are usually taken off rocks in this region.  Fishing for flatfish and cockles occurs in shallower waters.	Red cod, kahawai, rig, other sharks and barracouta are the species most likely to be taken by any fishing at the proposed site. Leatherjacket, kingfish and wrasse may be attracted to the existing mussel lines and be available for fishing  It is unlikely that blue cod, moki, or butterfish would be available in the habitat of the proposed site.

### *Exclusion of fishing*

29 I consider that any recreational or customary longline fishing, or rod/line drift fishing occurring in the area of the proposed site may be excluded from the proposed site because of the risk of entanglement.<sup>8</sup>

30 However, I consider that stationary rod and line fishing could continue between the proposed structures, as anecdotal information suggests fishers commonly fish by rod/line within mussel farms. Diving, if any, would not be excluded but is highly unlikely at this site.

### *Availability of other areas*

31 I consider where necessary, alternative areas in northern Banks Peninsula could absorb any recreational and customary fishing displaced from the proposed site.

32 Recreational and customary fishing opportunities in the Canterbury region are limited by restricted access to calm waters, which makes the bays of Banks Peninsula particularly important. However, given the types of fish likely to be caught at the proposed site, only

<sup>7</sup> From January 2009 to June 2018 no customary authorisations with site-specific information were issued for Tongue Bay in Port Underwood but 449 customary authorisations were issued for Port Underwood.

<sup>8</sup> 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.



longline fishing or rod/line fishing while drifting are likely to be restricted by the existing and the proposed marine farms.

33 Apart from the Pahutu (Flea Bay) and Akaroa marine reserves, all of Banks Peninsula is available for customary and recreational fishing although there are some method, seasonal and species restrictions in other areas of the peninsular.

34 Marine farms at Banks Peninsula are likely to have improved access to fish species taken by rod/line fishing from moored boats.

35 No information suggests the proposed site offers unique habitats or species mix.

### ***Increased cost of fishing***

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

37 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.

### ***Likely effect on fishing***

38 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 is unlikely to be of particular importance to recreational or customary fishers; and
- alternative areas within Banks Peninsula could absorb any recreational and customary fishing displaced from the proposed site.

### ***Cumulative effects***

39 I consider effects from the aquaculture activities proposed for the area of coastal permit CRC175136, added to the effects of existing aquaculture at Banks Peninsula, will not have an undue cumulative effect on customary and recreational fishing.

40 There is 212 ha of authorised aquaculture space at Banks Peninsula, most of which is on the northern side of Banks Peninsula. I consider that the existing marine farms have had some cumulative effect on customary and recreational fishing because some fishing methods are excluded from the marine farms.

41 However, not all the authorised aquaculture space occurs in popular fishing areas and some anchored rod and line fishing can still occur within the existing marine farms.

### ***Commercial fishing***

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

- only a small 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 within the fishstock quota management areas for any fishing excluded from the proposed site;
- 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.

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

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

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

45 Fisheries New Zealand used CatchMapper<sup>9</sup> to identify the fishing that has potentially occurred in the vicinity of the proposed site (Table 3).

46 In some fisheries the location data used in CatchMapper was not be the best available. Site specific habitat data provided in the consent application and more specific knowledge of those fisheries were used in the final assessment of whether the fishery could be affected as presented in Table 3.

47 Most of the potentially affected commercial fisheries in Table 3 are managed as stock units over Fisheries Management Area 3 (FMA3)<sup>10</sup> which spans the Kaikoura, Canterbury and Otago waters on the east coast of the South Island. The proposed site is very small in relation to the area of the potentially affected fisheries.

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<sup>9</sup> CatchMapper is a spatial database of all commercial fishing events for the eleven years from October 2007 to September 2018 (see Appendix D for more explanation).

<sup>10</sup> FMAs can be seen here <https://fs.fish.govt.nz/Page.aspx?pk=45&tk=389>

**Table 3: Fisheries identified as potentially occurring within the affected footprint of the proposed marine farm and estimated relative amount of the fishstock caught within the footprint.**<sup>11 12</sup>

I types of fishing detected within proposed farm footprint (and main fishstock)	% high spatial resolution	Average annual no. of overlapping fishing days	% of main fishstock caught by this method	Potentially affected	Assessment rationale
Flatfish, Trawl (FLA3)	100.0	0.8	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Rough skate, Trawl (RSK3)	100.0	0.6	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Inshore Mixed species, Trawl (RSK3/FLA3)	100.0	0.5	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Elephant fish, Trawl (ELE3)	100.0	0.2	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Red cod, Trawl (RCO3)	100.0	0.2	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Gumard trawl (GUR3)	100.0	0.1	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Barracouta, Trawl (BAR1)	100.0	0.1	less than 0.1 %	Yes	Trawling happens nearby and might be very slightly obstructed
Rock lobster, Rock Lobster Pot (CRA5)	0.0	133	less than 0.1 %	No	Rock lobster potting will not occur in this habitat

<sup>11</sup>Main fishstock refers to the main species caught in the fishing cluster but does not include all species taken by those fishing events.

<sup>12</sup> The amount of fishing overlapping with farm footprints is more precisely estimated where fishing location is reported by specific point coordinates rather than general statistical areas. The presence of a fishery within a footprint might be mistaken or the number of days overestimated when the fishing events were not mapped to precise locations. In these cases, other knowledge or available information may be used to confirm whether a fishery might potentially be affected.

### *Exclusion of fishing*

48 I consider that minimal exclusion of fisheries will occur at the proposed site except perhaps a small amount of trawling.

49 The fisheries given in Table 3 were identified by overlaying exclusion areas for each fishing method with the mapped fishing events in CatchMapper. The exclusion areas, also termed footprints of the proposed site, include appropriate buffer zones around the farm boundaries of a size depending on the type of fishing method. Towed fishing methods have larger footprints, i.e. larger areas from which they would be excluded, than static fishing methods. Only new footprint area where fisheries have not already been excluded by past aquaculture decisions is included in this assessment.

50 The proposed site is tucked within a small bay so may not be suitable for trawling but trawling that sweeps through the mouth of the bay may be slightly obstructed. However, this is likely to be negligible.

51 Set netting is not permitted at the proposed site so will not be excluded. No long lining, dredging or fish potting is reported in this area so will not be excluded.

### *Availability of other fishing areas*

52 I consider alternative areas are available to absorb any commercial fishing displaced from the proposed site, if there is any, because:

- the annual catches of each species potentially caught at this site are a negligible percentage of the total catches for those species within the relevant stock Quota Management Area (QMA) (Table 3);
- the same methods as those possibly used at the proposed site could be used elsewhere in the relevant QMA for each fish stock; and
- there is nothing special or unique about the fisheries habitat in the proposed site.

### *Increased cost of fishing*

53 I consider that the aquaculture activities at the proposed site are highly unlikely to increase any cost of commercial fishing. The proposed site is not unique or especially productive for fishing and the area excluded is very small compared to other fishing grounds available nearby.

### *Likely effect on fishing*

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

55 Fisheries New Zealand estimated on average less than 10kg of fish per year were possibly caught from the footprint of the proposed farm over 11 recent years (from the fisheries assessed as potentially affected in Table 3). This was all from trawling passed the mouth of the bay. Even if all similar trawl events were displaced in future the effect on the fisheries would not be undue.

### *Cumulative effects*

56 I consider existing aquaculture in FMA3 has affected commercial fishing. Around 2,900 ha of authorised aquaculture activities in FMA3 have previously been assessed for their

cumulative effect on fishing. To date, the highest cumulative effect on any individual fish stock affected by coastal permit CRC175136 is less than 0.3% and not undue.

57 I consider the cumulative effects on commercial fishing, including 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 of aquaculture to date has been assessed as a maximum of less than 0.3% effect on the worst affected fishery, and not undue; and
- the amount of additional catch that might have been displaced at the proposed site is considered to be negligible.

## AQUACULTURE DECISION

58 I am satisfied – based on all relevant information available to me – the activities proposed for the area authorised by coastal permit CRC175136 will not have an undue adverse effect on:

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

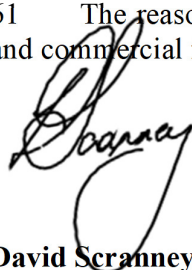
59 Accordingly, my decision is a determination for coastal permit CRC175136 with regard to:

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

60 The area of the determination on recreational, customary and commercial fishing is 3.09 ha with the following coordinates (NZTM2000):

<u>Point</u>	<u>Easting</u>	<u>Northing</u>
1	1591165.75	5171127.07
2	1591246.70	5171015.53
3	1591168.16	5170979.95
4	1591122.87	5171078.51
5	1590829.39	5170960.06
6	1590748.15	5170716.29
7	1590775.63	5170703.01
8	1590720.63	5170590.96
9	1590679.67	5170680.00
10	1590792.17	5170909.19
11	1590805.95	5170964.05
12	1591165.75	5171127.07

61 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  
Fisheries New Zealand – Tini a Tangaroa  
Ministry for Primary Industries – Manatū Ahu Matua

Dated 13<sup>th</sup> November 2019

## **References**

Brown, S. 2015 Benthic Survey for a marine farm renewal and extension: Big Bay, Banks Peninsula. Prepared by NIWA for Pigeon Bay Aquaculture Ltd. NIWA Client Report No: NEL2015-015, 22 pp.

Fisher, D; & Bradford, E. (1999) National Marine recreational Fishing Survey 1996: Catch and Effort Results by Fishing Zone. NIWA Technical Report 67 Wellington: NIWA

## APPENDIX A: SITE AND STRUCTURES MAP

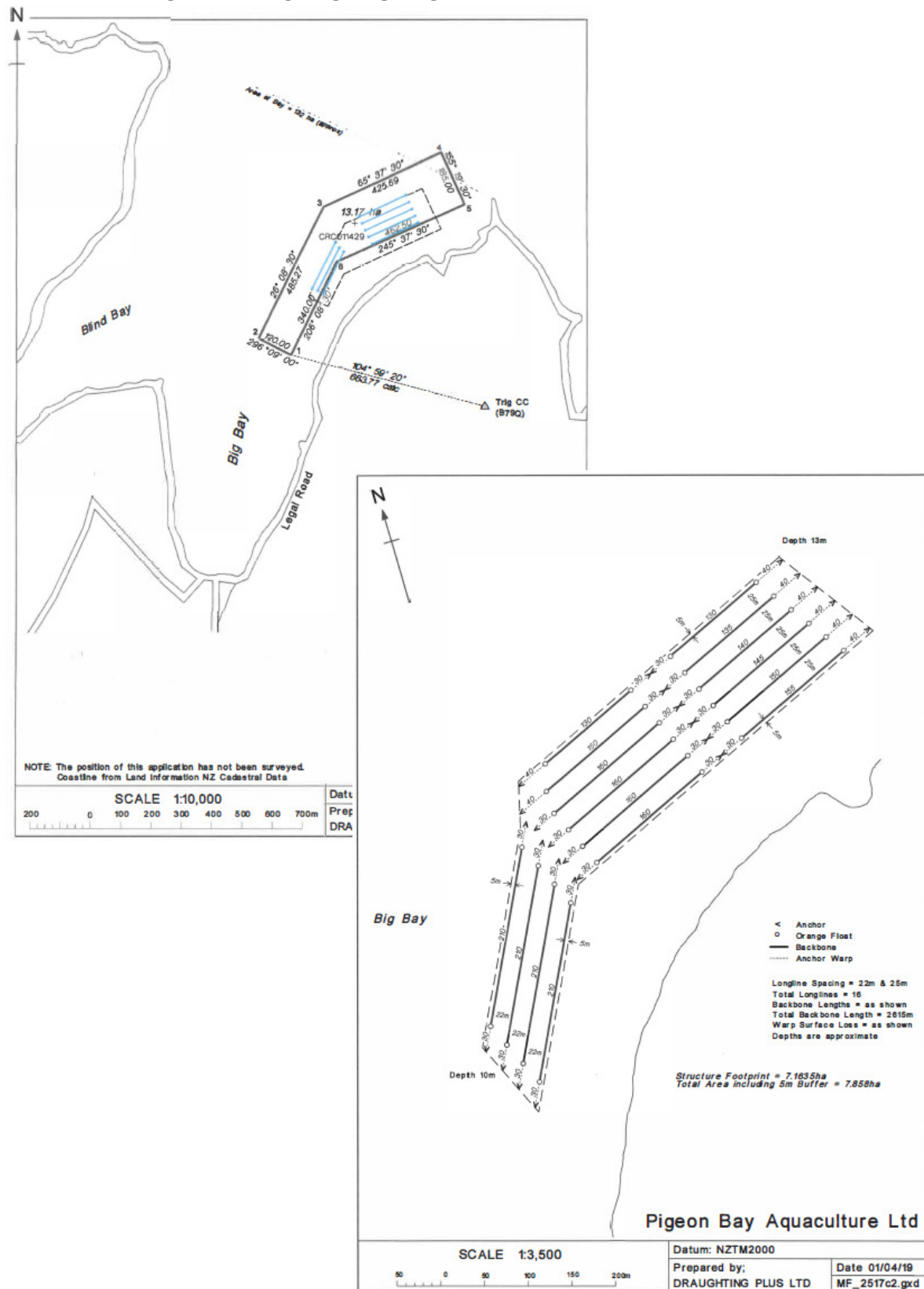


Figure 1. Site maps showing location of coastal permit CRC175136 and proposed structures. The dotted line in the top map shows the existing farm and structures (blue lines).



## APPENDIX B: ADDITIONAL STATUTORY CONTEXT

1 Section 186E(3) of the Fisheries Act <sup>13</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.

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 CRC175136.

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 fishery are as I have described in the assessment above in “*Location of the coastal areas relative to fishing area.*”

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<sup>13</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.

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.

8 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 Northern Banks Peninsula falls within rohe moana of Te Rūnanga o Ngāi Tahu and the papatipu rūnanga Te Rūnanga o Koukourārata. It is also within Te Tai o Mahaanui (Christchurch and Banks Peninsula Coastal Marine Area) Statutory acknowledgment area under the Ngāi Tahu Claims Settlement Act 1998 - Schedule 101: Statutory Acknowledgement for Te Tai O Mahaanui (Selwyn - Banks Peninsula Coastal Marine Area).
- 2 There are six customary fisheries management areas, being five mātaimai reserves and one taiāpure, at Banks Peninsula covering areas of particular importance for customary fishing.

## APPENDIX D: Commercial fishing reporting and analysis

1. Historically, fishing catches were reporting by a set of statistical areas providing only 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 nautical mile (nm). Since 2006/07, start positions for netting methods have reported to within 2 nm. Using this fine scale position data, Fisheries New Zealand has modelled and mapped fishing intensity for different clusters of fishing, characterised by a type of fishing gear and the main species caught.<sup>14</sup> This detail can be commercially sensitive and may not be publically released
2. Until recently, vessels less than 6 m long still reported by statistical areas and so the precise location of their fishing 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 information from commercial fishers and fishing companies, and Fisheries Officers can also help to determine whether specific types of fishing are likely to occur in an area.
3. 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.
4. The amount of all mapped fishing events that overlap with a proposed farm footprint is calculated. Trip landings are apportioned to the overlapping part of each event. These are summed and annually averaged for each fishery cluster and fishstock to estimate the amount of fish likely to have been landed within the footprint.
5. The amount of fishing was averaged over October fishing years 2007/08 to 2017/18. Eleven 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.

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<sup>14</sup> MPI developed the Catchmapper tool to spatially model the estimated catch from landing data. This informs our assessment, and particularly, Table 3. For more information see Osborne, TA 2018 Forecasting quantity of displaced fishing Part 2: CatchMapper - Mapping EEZ catch and effort. New Zealand Aquatic Environment and Biodiversity Report No. 200. Downloaded on 4 March 2019 from <https://fs.fish.govt.nz/Page.aspx?pk=113&dk=24611>