

**BEFORE THE HANANUI AQUACULTURE PROJECT [FTA-2511-1138]
EXPERT PANEL**

In the matter of the Fast-Track Approvals Act 2024 (the *FTAA*)

And approvals sought under the Resource Management Act 1991, the Wildlife Act 1953 and the Fisheries Act 1996

**Record of Decision of the Expert Panel
under Section 87 of the
Fast-Track Approvals Act 2024**

DRAFT ISSUED – 9 JULY 2026

Note: this decision is subject to change, particularly paragraphs shaded in grey which will be finalised after further information is received.

Date of Decisions: [insert date]

Expert Panel
Bal Matheson KC
Dr Ngaire Phillips
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APPENDIX D: Conditions of Wildlife Act Approvals

APPENDIX E: Summary of Section 53 Comments

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LIST OF ACRONYMS / ABBREVIATIONS

TERM	MEANING
BMP	Biosecurity Management Plan
CE	Coastal Environment
CIA	Cultural Impact Assessment
CMA	Coastal Marine Area
CMS	Stewart Island/Rakiura Conservation Management Strategy
CRFTCA	COVID-19 Recovery (Fast-track Consenting) Act 2020
DOC	Department of Conservation
EMMP	Environmental Monitoring and Management Plan
EPA	Environmental Protection Authority
ES	Environment Southland
FTAA	Fast-track Approvals Act 2024
HAP	Hananui Aquaculture Project
MAS	Murihiku Aquaculture Strategy
MfE	Ministry for the Environment
MMMP	Marine Mammal Management Plan
MPI	Ministry for Primary Industries
MSAP	Murihiku Southland Aquaculture Pathway 2025
Ngā Rūnaka ki Murihiku	Waihōpai Rūnanga, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima and Te Rūnanga o Hokonui
NPMP	Rakiura National Park Management Plan
NTCSA	Ngāi Tahu Claims Settlement Act 1998
NTS	Ngāi Tahu Seafood Resources Limited
NZADP	New Zealand Aquaculture Development Plan 2025-2030
NZAS	New Zealand Aquaculture Strategy 2019
NZCA	New Zealand Conservation Authority
NZCPS	New Zealand Coastal Policy Statement
RCP	Southland Regional Coastal Plan 2013
RIGL	Ruapuke Island Group Landowners
RMA	Resource Management Act 1991
RPS	Southland Regional Policy Statement
RTIAB	Rakiura Tītī Island Administering Body
SBMP	Seabird Management Plan
SCB	Southland Conservation Board
Seafood NZ	Southern Inshore Fisheries Management Company Ltd
SLR	SLR Consulting New Zealand Limited
SMP	Shark Management Plan
TRONT	Te Rūnanga o Ngāi Tahu
WAR	Wildlife approval report

PART A: EXECUTIVE SUMMARY

- 1 This is an application for the Hananui Aquaculture Project (**HAP, Project** or **Application**) by Ngāi Tahu Seafood Resources Limited (**NTS** or **the Applicant**) to develop an exposed coastal water finfish farm off the northern coast of Rakiura/Stewart Island.
- 2 NTS is a wholly owned subsidiary of Ngāi Tahu Seafood Ltd, which in turn is a wholly owned subsidiary of Ngāi Tahu Holdings. Te Rūnanga o Ngāi Tahu (**TRONT**) is the sole trustee of the Ngāi Tahu Charitable Trust that owns and operates Ngāi Tahu Holdings. Because of this linkage, the expectations and responsibilities of TRONT apply to the Applicant, and TRONT and Ngāi Tahu Whānui anticipate that the HAP will acknowledge the responsibilities of Ngāi Tahu ki Murihiku and be consistent with local tikanga and kawa, as well as directly support the aspirations of Ngāi Tahu set out in various strategic documents.¹
- 3 The HAP is located within Te Ara a Kiwa, waters which Ngāi Tahu has voyaged across for centuries, for harvesting, trade, and connection. For Ngāi Tahu ki Murihiku, Te Ara a Kiwa is not just a body of water, but a living space woven with whakapapa, atua, and intergenerational identity. It is within the takiwa of TRONT, who hold ahi kā, manawhenua and manamoana over the site. The narrative of the site, including the relationship of Ngāi Tahu ki Murihiku with Te Ara a Kiwa, has been a foundational to the development of the proposal, and consideration of its impacts on Ngāi Tahu values, associations, relationships, cultural practises, uses and aspirations.² This has included development of the proposal alongside Papatipu Rūnanga.
- 4 The HAP involves:
 - (a) The construction and operation of four marine farms positioned within an approximately 1,285 ha area which is 2 - 6 km from the shore;
 - (b) The marine farms will consist of polar circle pens, with each farm comprising up to 20 pens, in two 10-pen blocks, along with associated mooring lines, anchors and anchor blocks, feed and accommodation barges, and navigational aids (buoys, marks and lighting);
 - (c) The pen design will use a single net system, with an underwater net mesh size of 40 mm or less, and above water will use jump fences and top nets, to exclude predators;
 - (d) The development being progressed in two stages, with:
 - Stage 1 comprising one block of 10 pens at each of the four farm sites (Farms 1A, 2A, 3A and 4A), and a total discharge of up to 15,000 tonnes of feed per annum; and

¹ Section 2.3.2 of Application.

² Sections 2.1 – 2.3 of the Application.

- Stage 2 comprising a further block of 10 pens at each of the four farm sites (Farms 1B, 2B, 3B and 4B), with a total aggregate discharge of up to 25,000 tonnes of feed per annum; and
- Development of Stage 2 being dependent on the monitoring results from the Stage 1, and dependent upon effects remaining within thresholds specified by a proposed adaptive management approach; and

(e) Monitoring, surveying and sampling activities, both before construction commences and during operation of the marine farms.

- 5 The HAP was included as a listed project in Schedule 2 of the FTAA. On 9 March 2026 this expert panel (**Panel**) was appointed to determine the Application.
- 6 The Panel has assessed the Application applying the relevant statutory criteria within the purpose and context of the FTAA.
- 7 The Panel received comments from commentators and a response to those comments from the Applicant. The Panel has also asked further questions of clarification from a number of parties throughout the process, and the thoughtful and comprehensive responses have assisted the Panel's deliberations. The Panel has carefully reviewed all of that information in evaluating the Application. Overall, there is a high degree of alignment between the Applicant, the regulatory authorities and those who provided comments. What differences initially existed between the parties were largely resolved through the iterative processes adopted by the Panel.
- 8 In respect of the proposed conditions of the approvals, **[To complete paragraph following receipt of comments on draft conditions]**
- 9 For the reasons given in this decision, the Panel [grants | declines] approval for the Application [subject to the conditions in **Appendices B-D**]. **[Note: Aquaculture Decision subject to receipt and consideration of response from Chief Executive of MPI]**
- 10 This decision is made in accordance with section 87 FTAA. This decision covers all the approvals sought under the substantive application. This decision document comprises:
- 10.1 This executive summary – Part A;
 - 10.2 An overview of the HAP application - Part B;
 - 10.3 An overview of the FTAA framework - Part C;
 - 10.4 The procedural steps undertaken – Part D;
 - 10.5 The regional and national benefits of the HAP – Part F;
 - 10.6 An evaluation of the effects of the proposal – Part F;
 - 10.7 An evaluation of the applicable planning and policy framework – Part G;
 - 10.8 The framework for assessment of RMA approvals – Part H;

- 10.9 The framework for assessment of Wildlife Act approvals – Part I;
- 10.10 The framework for an Aquaculture Decision – Part J;
- 10.11 An evaluation of proposed conditions for the approvals – Part K;
- 10.12 The overall assessment of the Application under the FTAA– Part L;
- 10.13 The Panel’s decision on principal issues in contention – Part M; and
- 10.14 The formal record of decisions on approvals – Part N.

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PART B: OVERVIEW OF THE APPLICATION

Application

Applicant

- 1 NTS is the authorised person for the HAP, as set out in section 42 of the FTAA.

Site and surrounding environment

- 2 The Site for the proposed HAP is located in an exposed area of coastal water, off the northern coast of Rakiura/Stewart Island, 13 km north-west of Oban. The site is "L-shaped", is located between 2 km and 6 km offshore and covers an area of approximately 1,285 ha. The location is shown in Figure 1 below:



Figure 1 – Proposed site location (source: Figure 6-1 of the Application)

- 3 The Applicant provides a detailed description of the Site and its surrounding area, along with the conditions, values and uses in this area, which include:

- a. Ngāi Tahu ki Murihiku site narrative.³
 - b. Site location.⁴
 - c. Suitability for aquaculture.⁵
 - d. 'Natural State' water classification.⁶
 - e. Metocean conditions.⁷
 - f. Water quality.⁸
 - g. The seabed and benthic habitats.⁹
 - h. Fauna, including marine mammals, seabirds, sharks and wild fish.¹⁰
 - i. Commercial and recreational uses in the area.¹¹
 - j. Natural character, landscape and amenity values.¹²
- 4 We adopt the description of conditions, values and uses without repeating it here, noting that the summary of these set out in the Application are in turn based on more detailed descriptions set out in various reports appended to the Application.

Overview of the Application

- 5 The Application is to establish four marine farms in two stages of development. The full development will comprise two blocks of 10 pens (in a 2x5 grid) within each of the four farms, with one block established as part of Stage 1 (Farms 1A-4A), and the second during Stage 2 (Farms 1B-4B). The maximum total feed discharge will be 15,000 tonnes per annum in Stage 1, increasing to a total maximum of 25,000 tonnes per annum in Stage 2. However, progression to Stage 2 will be dependent on the monitoring results from Stage 1, and effects remaining within specified thresholds. It is proposed that a minimum of two full production cycles will be completed across all four farms before moving to Stage 2.¹³
- 6 Each block will include an associated mooring and anchoring system and be separated by around 300m from the second block within each farm. Each farm will be served by its own feed barge. Within the overall 1,285 ha site, the pens and barges will take up around 100 ha, being less than 8% of the proposed site. An exclusive occupation area, with access restricted to NTS (or others authorised by NTS) would extend around each farm and barge, 200m outwards from the buoys located at the edge of the mooring

³ Section 2.2 of the Application.

⁴ Section 6.1 of the Application.

⁵ Section 9.1 of the Application.

⁶ Section 9.2 of the Application.

⁷ Section 9.3 of the Application.

⁸ Section 9.4 of the Application.

⁹ Section 9.5 of the Application.

¹⁰ Section 9.6 of the Application.

¹¹ Section 9.7 of the Application.

¹² Section 9.8 of the Application.

¹³ Section 6.4.1 of the Application.

grid and from the sides of the feed barges, resulting in a total area for the exclusive occupation of up to 460 ha. Within the wider site, but outside the exclusive occupation areas, it is proposed that NTS would have preferential occupation, meaning this area could be used by the general public except in circumstances where NTS wants to use the area¹⁴. Figure 2 below, which is taken from the Application, shows in orange outline the exclusive occupation areas, and the dotted black line being the area of preferential occupation.



Figure 2 – Farm layout (source: Figure 6-2 of the Application)

- 7 The principal activity of the farms is the stocking of pens with fish (introduced as smolt), and feeding of those fish, to a harvest weight of approximately 4.5 – 5 kg. Single year class farming is proposed at each marine farm site, with rotational stocking, and a fallow period proposed after each harvest time.¹⁵
- 8 The Application states that the size and layout of the site has been designed around various factors, including being sites over sandy habitat, at least 1 km from biogenic

¹⁴ Section 6.3.1 of the Application.

¹⁵ Section 6.4 of the Application.

habitat along the predominant tidal axis (southeast–northwest) and 500 m in other directions, and to be the furthest extent practicable from Rakiura.¹⁶

- 9 The proposal is also based on the potential for the specific location of the farms to shift (but remain within the overall site) in response to matters arising at the detailed design and installation phases, or subsequently through monitoring.¹⁷ This would also result in the exclusive occupation areas being adjusted accordingly.
- 10 Details on the sea pens, feed barges and their anchoring systems, along with proposed navigation aids are detailed in the Application.¹⁸ In summary, this includes:
 - a. The use of 168 m circumference circular pens. These will consist of black high-density polyethylene pipes in floating collars tied together by brackets. A vertical jump fence up to 3.5 m high will be attached to the floating collar structure, to exclude seals and sea lions from the net pens, with a smaller jump fence to keep the salmon within the net pens. In addition, 5.9 m bird net poles will be attached to the floating collar structure, to support dark-coloured bird netting with a maximum half mesh size of 60 mm, placed over the pens.
 - b. Nets will be suspended below the floating collars to a maximum depth of 22 m below the sea surface (or as needed to allow for a 5m clearance from the bottom of the pen to the seabed). This will comprise a single net system made from dark coloured predator resistant materials, with a maximum half mesh size of 40 mm, to exclude predators from, and contain the salmon within, each pen. Each net will also have a 'false' bottom separated from the outer net, or a mortality collection system, to hold/contain dead fish away from access to marine species swimming underneath the nets.
 - c. The use of submerged artificial lighting (to delay the maturation of the fish), comprising up to eight 680 watt LED lights per pen, installed approximately 3–7m below the surface, and with light generally directed downwards.
 - d. Feed barges will be used for onsite accommodation, and include on board staff amenities, control rooms, workshop and maintenance facilities, and mortality processing and storage, with mortalities and sewage removed to shore for disposal. The barges will provide feed to each sea pen through feed blowers blowing feed through pipes to a rotor spreader that distributes feed throughout the pen.
 - e. Smaller vessels will be used to transport staff around the farm, service the farm and clean pens. Other temporary service barges and other work vessels will be on site from time to time for restocking supplies, delivering smolt and harvesting.
 - f. A mooring system will be required to anchor the sea pens and barges to the seabed. Indicative mooring designs are included in the Application,¹⁹ and will be refined during the detailed engineering design, but are expected to comprise 2500 kg dual shank anchors (with concrete block or steel sinkers); mooring lines and anchors for each block of pens; and gridlines, bridles and buoy lines to hold the

¹⁶ Section 6.3.1 of the Application.

¹⁷ Section 6.3.1 of the Application

¹⁸ Sections 6.3.2–6.3.4 and 6.3.6 of the Application.

¹⁹ In Appendix J of the Application.

pens in configuration. The feed barges will be moored using 8 anchor chains, also connected to 2500 kg dual shank anchors.

- g. Various aids to navigation will also be installed around the proposed site, including four cardinal marks, along with four special marks at the corner of each farm, two of which are to be lit.

Previous applications

- 11 The FTAA requires,²⁰ for projects listed in Schedule 2 such as the HPA, that information is provided about previous applications that have been made for the same activities. A summary of the previous applications that have been made for the HAP are outlined in the Application.²¹ This includes an application to Environment Southland (**ES**) under the Resource Management Act 1991 (**RMA**), which was lodged in December 2019, but then withdrawn.²² A new application was then lodged in 2022 with the Environmental Protection Authority (**EPA**) under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (**CRFTCA**).²³ That application was declined by that expert hearing panel.
- 12 The proposal in front of us has been refined from what was proposed in these previous applications, with the Application stating that a number of changes have been made to respond to issues raised in the CRFTCA process.²⁴ While cognisant of this, we also note that we are considering the Application under a very different legislative framework than the CRFTCA Panel.

Resource consents

- 13 The Panel has reviewed all the documentation and the further information provided by the Applicant and other participants, and this decision summarises the necessary consents at **Appendix A [To be finalised and inserted]**. The Panel agrees with the Applicant that, in terms of the relevant regional plan, being the Southland Regional Coastal Plan 2013 (**RCP**), overall the Application is a non-complying activity.²⁵ ES states that they agree with the Applicant's analysis of the relevant plan provisions.²⁶
- 14 Although the Application is classified as a non-complying activity by the RCP, the requirements applying to that activity status (under section 104D of the RMA) are expressly dis-applied by section 17(1)(b) of the FTAA and therefore do not apply to our consideration. The Application is therefore effectively treated as a discretionary activity.
- 15 A consent duration of 25 years is sought for the resource consents that are required,²⁷ along with (under section 26(1), Schedule 5 FTAA) a lapse period of ten years.²⁸

²⁰ Section 43(2) of the FTAA.

²¹ Section 7 of the Application.

²² A summary of the previous application made under the RMA is set out in Table 7-1 of the Application, along with subsequent changes that were made to it through the further information process in Table 7-2.

²³ A summary of the previous application made under the CRFTCA is set out in Table 6-1 of the Application, and includes a comparison to the details of this current Application.

²⁴ Section 6.5 of the Application.

²⁵ Section 8.2.2 of the Application.

²⁶ Environment Southland section 53 comments, dated 29 April 2026.

²⁷ Section 8.2.4 of the Application.

²⁸ Proposed condition #6.

Approvals relating to a wildlife approval under the Wildlife Act 1953

- 16 A wildlife approval provides lawful authority for an act or omission that would otherwise be an offence under various sections of the Wildlife Act.
- 17 Schedule 7, clause 5 sets out the criteria for assessment of an application for a wildlife approval (refer further Part I).

Approvals relating to an aquaculture decision under the Fisheries Act 1996

- 18 The HAP also requires an aquaculture decision to be made, because it seeks approval for aquaculture activities to be undertaken in the Coastal Marine Area (**CMA**). An 'aquaculture decision' determines whether the aquaculture activities authorised by the coastal permit application would have an 'undue adverse effect on fishing'. It is an important decision because the coastal permit, if granted, may displace fishing occurring in an area and adversely affect the fishery or fishers. For applications not processed through the FTAA, the chief executive of the Ministry for Primary Industries (**MPI**) makes this decision. For applications processed under the FTAA, the chief executive of MPI, in accordance with clauses 14 to 16 of Schedule 5, makes a recommendation to the Panel, which makes the aquaculture decision.
- 19 In respect of the HAP, as directed by the FTAA, the process for the making of a recommendation under clause 14 of Schedule 5 undertaken by chief executive of MPI occurred at the same time as the Panel invited comments under section 53. Any information provided, or submissions made to the chief executive have also been provided to the Panel. In accordance with Schedule 5, clause 15, the relevant chief executive, within 5 days of the Panel issuing the draft consent conditions relating to the application for resource consent, provides their recommendation to the EPA.
[Subject to consideration and receipt of MPI recommendation]
- 20 Schedule 5, clause 20 sets out the criteria when considering an aquaculture decision (refer further Part J).

PART C: OVERVIEW OF THE FTAA FRAMEWORK FOR APPROVALS

Legal context for a listed project under the FTAA

- 1 In accordance with section 42 of the FTAA, an authorised person²⁹ for a listed project may lodge a substantive application with the EPA. The substantive application is required to follow the process set out in sections 43 and 44. The Applicant lodged the substantive application on 26 November 2025.
- 2 The EPA decided that the Application was complete and within scope on 17 December 2025.³⁰ The EPA made a recommendation on whether there are competing applications or existing resource consents for the same activity,³¹ and provided the Application to the panel convenor on 21 January 2026. The EPA requested a report from the Ministry for the Environment (**MfE**) (being the “responsible agency” under section 18 FTAA) on 22 January 2026. A report was received on 2 February 2026.

Decisions on approvals

- 3 NTS seeks all necessary approvals for the construction, operation, maintenance and removal of four marine farms. These involve:
 - a. resource consents that would otherwise be applied for under the RMA;
 - b. a wildlife approval that would otherwise be applied for under the Wildlife Act; and
 - c. an aquaculture decision that would otherwise be made under section 80 of the Fisheries Act 1996.
- 4 Schedules to the FTAA set out decision-making criteria that apply in relation to the different types of approval that can be granted. These criteria are expressly applied in the record of our decision on each of these approvals at **Parts H - J** below.

- 5 This Part discusses the general operation of the FTAA.

The purpose of the FTAA

- 6 Section 3 of the FTAA states:

The purpose of this Act is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits.

- 7 The FTAA provides a single process for seeking a range of approvals that would otherwise have to be sought under different statutes and by different processes. This is provided for in section 42 and the approvals that can be granted include all those sought by the Applicant.

General provisions that apply in relation to all fast-track approval applications

- 8 Section 81 FTAA states:

81 Decisions on approvals sought in substantive application

²⁹ As defined in section 4 of the FTAA.

³⁰ Section 43 of the FTAA.

³¹ Section 47 of the FTAA.

- (1) *A panel must, for each approval sought in a substantive application, decide whether to—*
 - (a) *grant the approval and set any conditions to be imposed on the approval; or*
 - (b) *decline the approval.*
- (2) *For the purpose of making the decision, the panel—*
 - ...
 - (a) *must consider the substantive application and any advice, report, comment, or other information received by the panel under section 51, 52, 53, 55, 58, 67, 68, 69, 70, 72, or 90:*
 - (b) *must apply the applicable clauses set out in subsection (3) (see those clauses in relation to the weight to be given to the purpose of this Act when making the decision):*
 - (c) *must comply with section 82, if applicable:*
 - (d) *must comply with section 83 in setting conditions:*
 - ...
 - (f) *may decline the approval only in accordance with section 85.*
- (3) *For the purposes of subsection (2)(b), the clauses are as follows:*
 - (a) *for an approval described in section 42(4)(a) (resource consent), clauses 17 to 22 of Schedule 5:*
 - ...
 - (i) *for an approval described in section 42(4)(h) (wildlife approval), clauses 5 and 6 of Schedule 7:*
 - ...
- (4) *When taking the purpose of this Act into account under a clause referred to in subsection (3), the panel must consider the extent of the project’s regional or national benefits.*
- ...
- (6) *Despite subsection (2)(a), the panel—*
 - (a) *is not required to consider any advice, report, comment, or other information it receives under section 51, 53, 55, 67, 69, 70, or 72 after the applicable time frame; but*
 - (b) *may, in its discretion, consider the information as long as the panel has not made its decision under this section on the approval.*
- (7) *To avoid doubt, nothing in this section or section 82 or 85 limits section 7.*

9 Section 81(3) refers to the schedules to the FTAA that provide specific criteria to be taken into account in relation to the different types of applications that may be dealt with under the FTAA. As noted already, they are discussed later, in **Parts H – J**, when we address the particular approvals that are sought. However, at a broad level, we note that the criteria in each schedule of relevance to this decision start with the “purpose of this Act” and direct the Panel to give the greatest weight to that purpose.

10 In terms of section 81(2)(d), the direction in relation to sections 82 and 83 relate to the setting of conditions. We discuss this in **Part K**.

Ability to decline consent

11 Section 85 FTAA sets out the limited circumstances when approvals must or may be declined.

12 Section 85(1) and (2) sets out the matters that would require us to decline an approval. We are satisfied that none of these matters apply to the HAP, and in particular we find that no approvals are being sought for an ineligible activity, the grant of the approvals will not breach section 7, FTAA, and we have not made a reservation under clause 20 of Schedule 5 of the FTAA.

13 Section 85(3) sets out the matters that must be considered by the Panel in forming a view that the approval sought should be declined:

Approval may be declined if adverse impacts out of proportion to regional or national benefits

- (3) *A panel may decline an approval if, in complying with section 81(2), the panel forms the view that—*

- (a) *there are 1 or more adverse impacts in relation to the approval sought; and*
- (b) *those adverse impacts are sufficiently significant to be out of proportion to the project's regional or national benefits that the panel has considered under section 81(4), even after taking into account—*
 - (i) *any conditions that the panel may set in relation to those adverse impacts; and*
 - (ii) *any conditions or modifications that the applicant may agree to or propose to avoid, remedy, mitigate, offset, or compensate for those adverse impacts.*
- (4) *To avoid doubt, a panel may not form the view that an adverse impact meets the threshold in subsection (3)(b) solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).*
- (5) *In subsections (3) and (4), **adverse impact** means any matter considered by the panel in complying with section 81(2) that weighs against granting the approval.*

14 Section 85(4) means that non-compliance with directive avoidance policies that may otherwise preclude the granting of an approval is not itself fatal to an application. There are provisions in the Schedules that are generally to a similar effect.

15 Consistently with the approach adopted by other Panels, we see the exercise provided for by section 85(3) as requiring assessments of:

- a. the extent of the HAP's regional or national benefits;
- b. the significance of adverse impacts, after having applied the ameliorating effect of any proposed conditions of consent; and
- c. whether the adverse impacts are "sufficiently significant" to be out of proportion to the HAP's regional or national benefits.

16 We return to this assessment below.

Other statutory obligations

17 Where there are existing Treaty settlements and customary rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011, sections 7, 82 and 84 provide direction on the exercise of powers and functions under the FTAA, the consideration the Panel must give to specified documents³² and the setting of any conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011.

18 We consider these, and other general obligations on us as decision makers, where relevant, in Parts H- K below.

Iwi authorities

19 Section 3 of the Application sets out details relating to Ngāi Tahu settlement and Te Tiriti o Waitangi. It sets out:

- a. That Te Rūnanga is the iwi authority that represents the interest of Ngāi Tahu whānui. TRONT in turn recognise and supports the rakatirataka and mana of Papatipu Rūnanga.

³² Section 82(4) of the FTAA.

- b. How Papatipu Rūnanga have been engaged throughout the development of the HAP.
 - c. That the outcomes of the engagement are collated in various reports – Ngā Hua o Āpiti Hono Tātai Hono (contained in Appendix D to the Application), the Te Ara a Kiwa Cultural Values Assessment, the Cultural Impact Assessment (**CIA**) (contained in Appendix E to the Application) – and that these “*collectively articulate how the HAP can proceed in a manner that protects taoka species, sustains cultural integrity, and delivers enduring benefits for Ngāi Tahu whānui and future generations*”.³³
 - d. The context leading to the Ngāi Tahu Settlements (encompassing both Ngāi Tahu-specific settlements, along with relevant national Treaty settlements), along with a summary of each settlement, and an assessment of how the HAP relates to each.
 - e. That the HAP sits at the “confluence” of the NTCSA, the 1992 Fisheries Settlement, and the outcomes sought by the Māori Commercial Aquaculture Claims Settlement Act 2004 as an expression of iwi-led aquaculture and contemporary mahinga kai.
- 20 The Application also sets out consultation undertaken with Te Rūnanga o Ngāi Tahu (**TRONT**) (as the statutory body representing Ngāi Tahu Whānui and the applicant for Customary Marine Title) and with Ngāi Tahu ki Murihiku, including Awarua Rūnanga, Waihōpai Rūnanga, Ōraka- Aparima Rūnanga and Hokonui Rūnanga (collectively **Ngā Rūnaka ki Murihiku**), including the establishment of a Manawhenua Working Group.³⁴
- 21 The Panel invited comments from TRONT, Hokonui Rūnanga, Waihōpai Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima, Te Ohu Kaimoana and Ngāi Tahu Whānui under section 53(2)(b) – (g).
- 22 Comments were received from TRONT and Te Ao Mārama (on behalf of Hokonui Rūnanga, Waihōpai Rūnaka, Te Rūnanga o Awarua, Te Rūnanga o Ōraka Aparima) which indicated strong support for the proposal. A full summary of the comments are included in **Appendix E**.

³³ Section 3.1 of the Application.

³⁴ Sections 4.1 and 4.2.1 of the Application.

PART D: RECORD OF PROCEDURAL STEPS UNDERTAKEN

Panel Convener steps

Section 18 Report

- 1 MfE provided a report under section 18 in accordance with section 49. This report relates to Treaty settlement and other obligations and identifies a list of Māori groups relevant to the proposal, including iwi authorities, Treaty settlement entities, applicant groups under the Marine and Coastal Area (Takutai Moana) Act 2011, and tangatawhenua in relation to customary fisheries and two mataitai reserves.
- 2 The report states that the Treaty settlement relevant to this Application is the Ngāi Tahu Claims Settlement Act 1998 (NTCSA), which includes a statutory acknowledgement over the Rakiura/Te Ara a Kiwa (Foveaux Strait) CMA. The statutory acknowledgement requires a consent authority to provide a summary of the Application to TRONT, and the consent authority must have regard to the statutory acknowledgement in making notification decisions under the RMA. The report states that as the Panel acts as the consent authority in this instance, this obligation can be met through the Panel's consultation process under section 53 of the Act. Further, the report notes other settlement provisions – including taonga species and a conservation protocol – which while not considered to have direct implications for the Panel's consideration of this Application, are considered to provide relevant context regarding the traditional connection of Ngāi Tahu with this area and its environment.

Section 51 Reports

- 3 Pursuant to section 51 of the Act, the panel convener directed the EPA to obtain a report, under clause 3 of Schedule 7 of the FTAA, from the Director-General of Conservation, along with advice about the approach to the weighting of matters set out in Schedule 7, clause 3.³⁵ A consolidated wildlife approval report (**WAR**) was provided by the Department of Conservation (**DOC**) on behalf of the Director-General, on 15 April 2026. Its purpose is to provide commentary to support the Panel's assessment of the wildlife approval aspect of the Application, including consideration of the criteria in clause 5 of Schedule 7 of the FTAA.
- 4 The conclusion reached in DOC's assessment in the WAR is that, subject to recommended conditions and management plans, the proposed activities are broadly consistent with the purpose of the Wildlife Act. In particular, the report concludes that the relevant species management plans include appropriate methodologies to mitigate the risks associated with the Project.

Establishment of Panel

- 5 The Panel was set up under section 50 of the FTAA with effect from 9 March 2026. But, for the purposes of section 53, the commencement date for the Panel was set down as 16 March 2026.

Meetings and Site visit

- 6 On 17 and 26 March 2026, the Panel held an online Project Overview Conference with participants for the HAP. During the Conference, the Applicant and its experts provided an overview of the Application, which was also attended by relevant administering

³⁵ Minute of the Panel Convener, dated 28 January 2026.

agencies, local authorities, Treaty settlement entities, iwi authorities, and other Māori groups. This Conference also allowed the opportunity for the Panel to ask questions of the Applicant and its experts. This conference was recorded and remained available on the EPA website.

- 7 The Panel visited the Project site and surrounding area in Rakiura / Stewart Island on 14 April 2026, viewing the site from the water and from a helicopter. This included landing at various locations along the adjacent coastline to view the proposal's location as well as landing near the top of Hananui / Mt Anglem. During the site visit, the Panel also saw the existing fish farms that are owned and operated by Sanford Limited at Big Glory Bay. Further details are described in Minute 5, dated 6 May 2026.
- 8 Much of the Panel's correspondence, deliberations and decision-making occurred over email following reviews of the available documentation, the Project Overview Conference, the receipt of further information requests, and the receipt of comments (including on the draft Decision report and conditions). Notwithstanding this, the Panel met virtually via Microsoft Teams or in person on numerous occasions, including:
 - a. 15 April 2026;
 - b. 4 May 2026;
 - c. 21 May 2026;
 - d. 16 June 2026;
 - e. 23 June 2026; and
 - f. 8 July 2026.

Further information

- 9 During the Project Overview Conference, it became apparent that some of the relevant administering agencies and local authorities had already commissioned or prepared expert reports or advice in their consideration of the Application, and the Panel requested that these reports and advice be made available prior to comments on the Application being filed, so that those making comments had the benefit of this information before they filed their comments.³⁶ DOC provided a response to this on 23 March 2026, noting that it had not commissioned any external expert reports in relation to the HAP, and that reports would be prepared by internal technical staff and filed with comments invited under section 53 of the FTAA. ES provided a response on 19 March 2026, which included certain additional information:
 - a. A landscape review prepared by Mike Moore;
 - b. A seabed review prepared by Dr Keeley in October 2025, along with a response from Cawthron that was provided by the Applicant in response to that review (including revisions to the Seabed monitoring report);

³⁶ Minute 1 of the Expert Panel, dated 20 March 2026.

- c. Confirmation that Dr Keeley’s review was included in the Application documents (within an appendix to the Water Column Assessment included as Appendix K to the Application), and SLR’s response to that review was also included in an appendix to the Water Column Assessment; and
 - d. Further comments from Dr Keeley on the seabed and water column reports included in the Application.
- 10 The Panel also directed the EPA to request the following further information (under section 67 of the FTAA):
 - a. A request for legal submissions to be provided from the Applicant on specified matters, and for ES and DOC to address the submissions in their comments on the Application (along with any other parties choosing to do so);³⁷ and
 - b. Information requested from the Applicant about proposed conditions.³⁸
- 11 Legal submissions on the specified matters were received from the Applicant on 10 April 2026. These addressed:
 - a. How the HAP is reliant on an adaptive management approach;
 - b. The existing applicable legal principles relating to the use of adaptive management in the RMA context and whether the FTAA requires any amendments to the application of those principles; and
 - c. How the HAP’s assessments and conditions have responded to those.
- 12 DOC and ES provided comments on the Applicant’s legal submissions as part of their section 53 comments. As part of this, DOC also provided legal submissions on the adaptive management principles in the RMA context and whether the FTAA requires any amendments to the application of those principles.
- 13 The Applicant’s response to questions about proposed conditions (as set out Minute 4) was received on 22 April 2026. The evolution of the draft conditions is discussed further below.

Invitations to comment

- 14 The Panel invited comments on the Application by minute dated 30 March 2026.³⁹ Responses to this invitation were due on 30 April 2026. Comments were received on time from the following:
 - a. Bravo Adventure Cruises;
 - b. CRA8 Rock Lobster Industry Association Inc;
 - c. DOC;

³⁷ Minute 3 of the Expert Panel, dated 1 April 2026.

³⁸ Minute 4 of the Expert Panel, dated 8 April 2026.

³⁹ Minute 2 of the Expert Panel, dated 30 March 2026.

- d. ES;
 - e. Great South;
 - f. Minister for Māori Development;
 - g. Minister for Oceans and Fisheries & Minister for Regional Development;
 - h. Minister for the South Island & Minister for Hunting and Fishing;
 - i. MPI;
 - j. New Zealand Conservation Authority (**NZCA**);
 - k. PāuaMAC5;
 - l. Rakiura Tītī Island Administering Body (**RTIAB**);
 - m. Ruapuke Island Group Landowners (**RIGL**);
 - n. Southland Conservation Board (**SCB**);
 - o. Te Ao Mārama Inc; and
 - p. TRONT.
- 15 On 4 May 2026, the EPA received a late comment from Southern Inshore Fisheries Management Company Ltd (**Seafood NZ**), who advised that internet outages had prevented its comment being filed within time. The Panel, under section 81(6) of the FTAA opted to accept the late comment from Seafood NZ.⁴⁰
- 16 The Panel would like to thank all parties who commented for their contributions. **Appendix E** contains a summary of all the matters raised in the comments. The matters raised are primarily discussed in Parts F to K of this Decision, as relevant to our evaluation, the approvals sought or proposed conditions.
- 17 The Panel, through the EPA, received various items of correspondence from parties either requesting to comment, or providing additional material. The Panel's response to this correspondence is recorded in the Panel's Minutes 5, 6, and 7 dated 6 May 2026, 18 June and 9 July 2026 respectively.
- Applicant's response to invited persons comments**
- 18 On 7 May 2026, the Applicant provided a response to the comments received on the Application from those persons who were invited to comment under section 53 of the FTAA. This included, amongst other matters, an updated set of draft consent conditions. These conditions were superseded by those provided later, as described at paragraph [21] below.

⁴⁰ Minute 5 of the Expert Panel, dated 6 May 2026.

- 19 The Panel has considered the Applicant's responses, and, where appropriate, refers to those responses within Parts F to I of this report below.

Appointment of special advisor

- 20 On 8 April 2026 the Panel appointed Liz White as a special advisor to provide the Panel with additional support in decision writing matters.⁴¹ This appointment was made under clause 10(2) of Schedule 3 of the FTAA. The Panel records its thanks to Ms White for her very valuable assistance with the drafting of this decision.

Conditions

- 21 The Application included a set of draft conditions. Since that time, the draft conditions have evolved, as follows:
- a. In Minute 4 (dated 8 April 2026) information was requested from the Applicant about the proposed conditions. In its response (dated 22 April 2026), the Applicant proposed changes to various conditions, as well as identifying where conditions might need to be amended further, if the Panel considered that the modified approach identified by the Applicant would be more appropriate than the approaches set out in the original draft conditions.
 - b. Various parties provided feedback on the draft conditions, including suggested amendments to conditions, as part of their formal comments. These are summarised in **Appendix E**.
 - c. In their comments on the Application, both ES and DOC advised that they had not had sufficient time to address the Applicant's response to Minute 4 in their comments. In Minute 5 (dated 6 May 2026) the Panel requested that these parties provide their views by 18 May 2026. These parties provided feedback (received on 18 May), which identified where the amendments to the draft conditions proposed by the Applicant addressed their concerns, and where matters remained outstanding. ES also included feedback from Dr Keeley, but noted his ability to comment had been limited due to Dr Keeley being on leave.
 - d. On 7 May 2026, the Applicant provided a response to the section 53 comments. This included (in Attachment A to the response) various amendments to conditions.
 - e. In Minute 5, the Panel also indicated its intention to hold a Conditions Workshop in person in Christchurch and on-line to discuss any remaining areas of dispute regarding the draft conditions with the Applicant and any parties who provided invited comments.
 - f. Prior to the Workshop, the Applicant provided (22 May 2026) an updated set of conditions, including a draft Environmental Monitoring and Management Plan (**EMMP**). The Applicant also indicated its intention to engage with parties, particularly ES and DOC in relation to the updated set of consent conditions with a view to resolving any remaining issues ahead of the other parties responding to the conditions and the proposed Conditions Workshop in late June.

⁴¹ Minute 4 of the Expert Panel, dated 8 April 2026.

- g. As a result of those further discussions, a further updated set of conditions was then provided on 8 June 2026.
- h. Both updated sets of consent conditions included commentary to explain the genesis of all proposed amendments, and collated the responses to Minute 4, the WAR, the section 53 comments, and ES and the DOC's 18 May comments.
- 22 The Panel held a Conditions Workshop with participants on 23 June 2026, which was attended in-person in Christchurch, and online. A recording of the Workshop is available online. The purpose of the Workshop was to discuss the Applicant's 8th June suite of conditions, to identify those matters that had been resolved with other parties, and those which remained outstanding. (Refer further Minute 7, dated 9 July 2026.)
- 23 In accordance with section 70 FTAA the Panel has reviewed and amended these conditions and now provides the draft conditions to the Applicant and persons invited to comment, as part of this draft decision. **[To update following receipt of comments]**

Comments from the Minister for Māori Crown Relations: Te Arawhiti and Minister of Māori Development

- 24 Under section 72 FTAA the Panel invites comment from the Ministers for Māori Crown Relations: Te Arawhiti and Māori Development on this draft decision and draft conditions. **[To update following receipt of comments]**

Hearing

- 25 The Panel has exercised its discretion not to require a hearing on any issue under section 56 FTAA.
- 26 The Panel was able to adequately consider all issues based on the information available including the Application, comments received, responses to comments, the further information provided by the Applicant, the Council and invited persons and through the discussions at the Conditions Workshop and with the additional material provided. The material issues involved were comprehensively addressed in the documentation provided thereby resolving any technical expert differences of opinion. The remaining issues in dispute between the parties are very limited in scope and nature, and the Panel has sufficient evidence before it to make a finding on those matters.

Timing of the Panel decision

- 27 In accordance with the panel convenor minute dated 2 March 2026 the time frame for the Panel to issue its decision documents under sections 79 and 88 is 10 August 2026.

PART E: IDENTIFICATION OF REGIONAL AND NATIONAL BENEFITS

Legal context

- 1 Section 3 of the FTAA states that the purpose of the Act is to facilitate the delivery of infrastructure and development projects with *significant regional or national benefits*.
- 2 As noted above in Part C, section 81(4) FTAA specifically requires the Panel to consider the extent of the project's regional or national benefits.
- 3 The assessment of adverse impacts in relation to an approval sought is particularly relevant in the context of a decision to decline an approval. An approval can only be declined if the adverse impacts are sufficiently significant to be out of proportion to the identified regional or national benefits.⁴²
- 4 There is no specific definition of significant regional or national benefits in the context of listed projects. Section 22 FTAA, which relates to the criteria for assessing a referral application, provides the following (relevant sub-clauses shown):

- (2) *For the purposes of subsection (1)(a), the Minister may consider—*
 - (a) *whether the project—*
 - (i) *has been identified as a priority project in a central government local government, or sector plan or strategy (for example, in a general policy statement or spatial strategy), or a central government infrastructure priority list:*
...
 - (iv) *will deliver significant economic benefits:*
 - (v) *will support primary industries, including aquaculture:*
 - ...(x) *is consistent with local or regional planning documents, including spatial strategies:*

- 5 While acknowledging that those matters relate to consideration of a referral application, the Panel finds that it is appropriate to apply those same types of considerations to an assessment of a substantive application. Given the FTAA's core focus on regional and national benefits, it would be anomalous if the criteria for referral into the FTAA process could not be applied to an assessment of any resulting substantive application. The Panel also records that while it finds assistance from section 22, it does not consider that list of matters to be an exhaustive list, and that the Panel may consider other regional and national benefits not listed.
- 6 In respect of those matters in section 22(2), the Panel finds that the Project will assist with the development of New Zealand's aquaculture industry which has been identified as a priority project (sub-clauses 2(a)(i) and (v)), the Project will deliver significant economic benefits as described immediately below (sub-clauses 2(a)(iv)), and the Project is consistent with regional planning documents (sub-clauses 2(a)(x)).

Summary of Other Benefits Identified

- 7 A summary of the anticipated national and regional economic and employment benefits is set out in the Application at section 5.2. A full economic assessment is set out in Appendix I of the Application, which concludes that the HAP will deliver significant economic benefits. Below, we summarise the key benefits that have been identified:

⁴² Section 85(3) of the FTAA.

- a. In the establishment phase:
 - (a) Regional 'Value Added' (VA)⁴³ of between \$61 and \$78 million, with 200-260 jobs created.
 - (b) National VA of between \$175 and \$215 million, with 660-840 jobs created.
- b. In the operational phase:
 - (a) Regional VA of between \$781 and \$888 million, with 415-480 jobs created.
 - (b) National VA of between \$1.7 and \$2.05 billion, with 800-1,040 jobs created.
- c. A return to households, from the total economic activity associated with the HAP, of up to \$841m, of which \$386m will be to households in Southland.
- d. At full scale, a contribution of approximately \$500m in annual gross revenue.
[Further information request made – refer Minute 7]
- e. Social and community benefits arising from the four funds proposed by the Applicant.
- f. The contribution of the HAP towards the achievement of the goals for aquaculture growth at both the regional and national level (this is discussed further in Part G).

Section 53 Comments on benefits

- 8 Many of those who provided comments either did not specifically refer to the potential benefits, or expressly recognised that there would be such benefits. The latter include:
- a. PāuaMAC5 - considers that the HAP will lead to port and other infrastructure improvements of broader benefit to others and additional employment opportunities.
 - b. Minister for the South Island / Minister for Hunting and Fishing – considers that the Project will deliver significant regional economic benefit, including job creation and regional investment benefits.
 - c. ES – notes the HAP's significant regional benefits and alignment with Murihiku Southland Aquaculture Pathway 2025 (**MSAP**).
 - d. Minister for Oceans and Fisheries / Minister for Regional Development – considers, based on the Applicant's economic analysis, that the Project will have significant regional economic benefits, including generation of substantial economic and employment benefits for Southland.
 - e. Ngā Rūnaka ki Murihiku – considers the HAP provides significant opportunities for

⁴³ What this includes is summarised in footnote 17 of the Application.

Murihiku, including high-quality employment for whānau, the opportunity to reconnect whānau back to this site, workforce development pathways for rangaTahu, increased regional economic activity and long-term industry stability, opportunities for co-design, and intergenerational benefits aligned with whānau wellbeing and sustainable regional growth.

- f. TRONT – states that the HAP will be a tribal asset, advancing the tribal economic base and continuing the ancestral relationship with the moana, providing an opportunity for Ngāi Tahu to be actively involved in the aquaculture industry in a way that delivers positive outcomes for mana whenua, the environment and the wider tribe.
- 9 The only commentator who raised any issues with the assessment of benefits was Great South. That organisation noted that the economic assessment assumes a Business-as-Usual scenario, which does not take into account changes that might impact the Chinook Salmon fishery, such as climate change effects. It also noted that its own analysis more conservatively estimates the economic benefits of the HAP at \$498m, and 298 jobs created. However, Great South also stated that their analysis was based on older information, also assumes a Business-as-Usual scenario, and was undertaken for a different purpose. Overall, it accepted this Project will deliver large-scale, long-term economic benefits for Murihiku Southland, including hundreds of sustained jobs, significant regional value added, and income flows comparable in scale to a major industrial employer, while strengthening economic diversification and resilience.

Assessment

- 10 While the Panel acknowledges the cautionary comments by Great South about the assessment of financial returns by the Applicant, the Panel nonetheless finds, by a wide margin, that the benefits of the HAP remain regionally significant. To the extent that the Project contributes materially to the development of New Zealand's aquaculture industry, then those benefits are arguably also nationally significant.
- 11 Furthermore, the Panel reminds itself that the assessment of benefits under the FTAA is not limited to strictly financial benefits, and it must also include broader social and cultural benefits that arise from the Project. These wider social and cultural benefits, in particular, the cultural benefits identified by mana whenua are, in the Panel's view, regionally significant. In that regard, the Panel draws particular attention to the following comment received from TRONT:

*The project is a contemporary expression of mahinga kai, which will enable Ngāi Tahu to continue their traditional and ongoing relationship with Te Ara a Kiwa and Rakiura as mana whenua/mana moana.*⁴⁴

- 12 In undertaking this assessment, we have not been provided with any evidence about any material financial or other disbenefits that should weigh against the finding we have made about the regional significance of the benefits identified.

⁴⁴ Te Rūnanga o Ngāi Tahu section 53 comments, 30 April 2026

PART F: EVALUATION OF EFFECTS

- 1 Schedule 5, clause 5(4) requires a consent application to provide an assessment of an activity's effects on the environment covering the information in clauses 6 and 7. The Application provided an assessment of these matters in section 10, which was in turn informed by a range of technical assessment contained in appendices to the Application. Participants who commented also raised a range of actual and potential effects.
- 2 The potential adverse effects discussed included:
 - a. Seabed Effects
 - b. Water Column Effects
 - c. Effects on Marine Life
 - d. Biosecurity and Disease Risk Effects
 - e. Effects on Natural Character, Landscape and Visual Amenity
 - f. Cultural Effects
 - g. Effects on Navigation
 - h. Effects on Commercial Fisheries
 - i. Effects on Recreation and Tourism
 - j. Noise Effects
 - k. Effects from Waste Material and Hazardous Substances
- 3 Significant positive effects will also accrue from the Project. These include:
 - a. Economic Benefits and Costs
 - b. Value Added and Employment Impacts
 - c. Cultural and social benefits
- 4 We have thoroughly read all the effects assessment reports and expert review comments and have had the opportunity to question key issues with various experts at the Panel Overview Conferences held on 17 and 26 March 2026 and again at the Conditions Workshop on 23 June 2026. For the record we briefly summarise the expert conclusions regarding effects below and list as a cross-reference the final conditions that we recommend to effectively manage and monitor identified effects issues under each section. It is noted these conditions are largely those proposed by the Applicant on 1 July 2026, following their dialogue with parties after the Conditions Workshop held on 23 June 2026. The Panel has made some minor grammatical and wayfinding changes to the Applicant's Condition Set dated 1 July 2026.
- 5 Prior to discussing the information before us on each effect it is important to say that from an overall assessment perspective, we find that the Applicant has provided a comprehensive and well researched suite of effects assessments as part of its

substantive application for the Panel's consideration. Furthermore, throughout their substantive application preparation and ensuing FTAA decision making process, it is evident that the Applicant has been proactive in engaging with the two relevant administering agencies, ES and DOC, including with their respective expert reviewers.

- 6 During the Panel Overview Conference held on 17 March 2026 the Panel asked the two administering agencies if they considered the Panel had sufficient expert evidence in front of it to properly consider the Application and both agencies replied they did. We agree with that conclusion.
- 7 Following the Applicant's responses to the Panel's requests for more certain and definite conditions (requested in our Minute 4 dated 8 April 2026), completion of the comments process under section 53 of the FTAA, and the outcome of the 23 June 2026 Conditions Workshop we record that in relation to effects assessment and management matters there is no principal issues in contention between experts. There are, however, some process matters associated with the conditions as set out in **Parts F – I** of this decision.

Seabed Effects

- 8 *Cawthron* (H Bennett, M Smeaton, L Floerl and P Casanovas) provided an assessment of the potential effects of organic material (farmed fish faeces, uneaten feed, and additives) and structures (installation and long-term occupation) on the seabed habitats and communities in the area associated with the HAP.⁴⁵ The assessment was undertaken utilising modelling, baseline data and existing literature. Initial assessments and modelling undertaken by *Cawthron* first starting in 2018 had been updated in this report to include various refinements to the HAP made by the Applicant following the declined CRFTCA application.
- 9 The *Cawthron* assessment concluded that, overall, the proposed development is not expected to result in adverse seabed effects, and seabed ecological integrity is likely to be maintained. They make several recommendations for managing seabed effects to defined standards and in terms of baseline and ongoing monitoring that have been adopted.
- 10 Dr Nigel Keeley, an experienced marine scientist peer reviewed the seabed effects assessment undertaken on behalf of ES, and he agreed with both the methodology undertaken by *Cawthron* and with the conclusions of their report. His peer review noted that the conservative approach to the assessment was likely to have overestimated any effects on the seabed ecology resulting from the deposition of organic material.
- 11 For DOC, Dr Kirsten Rodgers provided detailed comments under section 53 of the FTAA in relation to the potential effects on the seabed environment, and importantly on conditions designed to manage and monitor such effects. She noted that the improved confidence in the spatial extent and boundaries of biogenic habitat types since the previous CRFTCA application "*is an important advancement in identifying, avoiding and monitoring these habitats*".⁴⁶ Dr Rodgers suggested a range of condition

⁴⁵ *Cawthron*, 21 November 2025, *Assessment of seabed effects associated with farming salmon offshore of northern Stewart Island / Rakiura*. Appendix M of the Application.

⁴⁶ Department of Conservation section 53 comments, 23 April 2026.

improvements, many of which have been adopted by the Applicant in its final proposed conditions set dated 1 July 2026.

Conditions Proposed to Manage Seabed Effects

Management of seabed and water column effects – Condition 69

Adaptive Management – Conditions 70 to 81

Staging – Conditions 82 to 84

Water Column Effects

- 12 The Applicant engaged *SLR Consulting New Zealand Limited (SLR)* (Dr P Wilson, R Forrest, R Zyngfogel, Peter McComb and D Greer) to characterise and evaluate the potential effects of the HAP on the water quality, phytoplankton, and dissolved oxygen within the water in the area of the HAP.⁴⁷ SLR also provided an assessment of the potential influence of artificial lighting required for the HAP on this area.
- 13 The modelling undertaken by SLR showed that the effects on water quality and ecological process in relation to ammonia toxicity, nutrient enrichment and oxygen depletion would be low within the area of the HAP itself and negligible / not ecologically meaningful in the surrounding area. They make several recommendations for managing seabed effects to defined standards and in terms of baseline and ongoing monitoring that have been adopted.
- 14 SLR also concluded that the introduction of underwater lighting within the HAP would not have a measurable impact on the ecological process at the levels and depths that are proposed by the Applicant.
- 15 ES engaged Dr Nigel Keeley to peer review the SLR report and recommendations. Dr Keeley provided a range of useful clarification questions that have been responded to by the Applicant both prior to and through the section 53 comments process. He explained to us at the 23 June 2026 Conditions Workshop that subject to some further minor conditions clarifications he was satisfied that the Applicant's expert assessments and associated conditions framework were appropriate.

Conditions Proposed to Manage Water Column Effects

Management of seabed and water column effects – Condition 69

Adaptive Management – Conditions 70 to 81

Staging – Conditions 82 to 84

Effects on Marine Life

- 16 The Applicant engaged several experts to consider the effects of the HAP on marine mammals, seabirds, sharks and wild fish. The Applicant noted that the aim is to avoid attracting marine species to the Project area and management plans provided with the application address this as well as setting out the measures that will be undertaken to avoid or mitigate any adverse effects if species are attracted to the HAP area.

⁴⁷ SLR, 6 November 2025, *Water Column Assessment, Hananui Aquaculture Project*. Appendix K of the Application.

Marine Mammals

- 17 A desktop assessment of the effects of the HAP on marine mammals (whales, dolphins, NZ fur seals and NZ sea lions) was undertaken by D Clement of *Cawthron*.⁴⁸ Habitat displacement, avoidance and entanglement, noise and underwater lighting were all considered as potential effects on these species, with the assessment concluding that the effects would be low to moderate based on spatial and temporal factors associated with the species. A comprehensive Marine Mammal Management Plan (**MMMP**) a draft of which is provided with the Application, adopts protection, best management practices and ongoing monitoring and review that will ensure any effects on marine mammals are both managed and remain appropriate.
- 18 Chloe Corne, a DOC Marine Mammal expert, provided an experienced expert view on cetaceans. Her conclusions were that "*the AEE and MMMP provide a comprehensive overview and reasonable management strategy for avoiding, minimising and mitigating entanglement, farm interactions and vessel strike*".⁴⁹
- 19 Dr Jody Weir has provided a review of the Application in relation to potential effects on known pinniped (i.e., sea lions, fur seals and true seals) as part of the DOC section 53 response. She emphasises the critical nature of "*the collection of baseline data on pinnipeds and continued monitoring throughout all phases of development and operation*".⁵⁰
- 20 We note that the *final* MMMP conditions have had input from DOC experts and that the Plan is to be completed and certified prior to the construction of marine farm structures, with ongoing monitoring and review required.

Conditions Proposed to Manage Marine Mammal Effects

Certification Conditions – Conditions 2 to 5

Marine Mammals Management– Conditions 35 to 41

Sea Birds

- 21 Dr Leigh Bull of *BlueGreen Ecology Limited* provided an assessment of the effects of the HAP on coastal and marine avifauna (seabirds),⁵¹ based on the key species that had been recorded near the HAP site. The potential risks of the HAP to seabirds included entanglement, habitat exclusion, changes to food supply, disturbance, marine litter, attraction to artificial lighting, and vessel or propeller strike while the presence of structures associated with the HAP would benefit some species by providing new roosting habitat.
- 22 Overall Dr Bull considered that with the measures outlined in the Seabird Management Plan (**SBMP**) provided by the Applicant, the HAP would not have a significant effect (low to very low) on most seabirds in the area. Dr Bull did however note that the effect

⁴⁸ Cawthron, 7 November 2025. *Effects of Hananui Aquaculture Project on marine mammals*. Appendix N of the Application.

⁴⁹ Department of Conservation section 53 comments, 23 April 2026.

⁵⁰ Department of Conservation section 53 comments, 23 April 2026.

⁵¹ BlueGreen Ecology, 8 November 2025. *Hananui Aquaculture Project: Coastal & Marine Avifauna Assessment – Fast Track Approvals*. Appendix O of the Application.

- on Foveaux shag and Spotted shag from entanglement and the Whenua Hou diving petrel from attraction to the artificial lighting had the potential to be moderate.
- 23 Two senior DOC sea bird experts provided advice to the Panel in DOC's section 53 comments response, Graeme Taylor and Dr Hendrik Schultz.
- 24 Mr Taylor provides advice on known seabirds in the Foveaux Strait area and confirms the Applicant's expert has assessed the known species. He confirmed that the proposed SBMP was largely fit for purpose, providing commentary on the need to have more specific detail about euthanising birds on site, and some pen management aspects. He concludes that *"The applicant has done a good job in recognising important seabird values and identifying measures to reduce potential impacts with the proposed marine farm"*.⁵²
- 25 Dr Schultz gave specific advice regarding the potential effects of the proposed marine farming activity on hoiho / yellow-eyed penguin. While agreeing with Mr Taylor regarding the overall comprehensive approach by the Applicant, he did recommend further discussions with DOC experts on conditions matters around entanglement events and lighting.
- 26 We have been advised that since the April 2026 section 53 comments there have indeed been further dialogue on seabird management and monitoring conditions between the experts and on 1 July 2026 following the Panel convened Conditions Conference held on 23 April 2026, DOC confirmed that; *"A copy of the Seabird Management Plan (SBMP) dated 6 May 2026 was provided to DOC on 30 June 2026. This version reflects updates made in response to DOC's s 53 comments, no further changes are requested."*
- 27 For completeness we note here that the RTIAB provided comments to us under section 53 of the FTAA and also tabled and spoke to a document associated with conditions and management plan provisions at the 23 June 2026 Conditions Workshop.

Conditions Proposed to Manage Sea Bird Effects

Certification Conditions – Conditions 2 to 5
Seabirds Management – Conditions 42 to 48
Lighting – Condition 66

Sharks

- 28 The Applicant engaged Dr B Finucci of *Earth Sciences New Zealand (formerly NIWA)*, to provide advice to the Applicant regarding the effects of the HAP on two shark species known to be present in the Project area and most likely to interact with a marine farm - the white shark (*Carcharodon carcharias*), and the broadnose sevengill shark (*Notorynchus cepedianus*).⁵³ Dr Finucci considered that the most likely impact of the HAP on these species would be through entanglement and entrapment however with the implementation of avoidance and mitigation measures, the effects would be minimised. The Applicant developed a Shark Management Plan (**SMP**) for this purpose

⁵² Department of Conservation section 53 comments, 23 April 2026.

⁵³ NIWA, June 2025. *Shark assessment for the proposed fish farm off northern Stewart Island/Rakiura*. Appendix P of the Application.

and with this in place the overall assessment by Dr Finucci was that any adverse effects on shark species associated with the HAP would be relatively low.

- 29 In their 30 April 2026 section 53 comments package, DOC Senior Marine Science Advisor, Dr Karen Middlemiss reviewed the work and draft SMP prepared by Dr Finucci. She concluded that: *"To the best of my knowledge, the applicant has sufficiently outlined in the shark management plan the mitigations/actions required to protect sharks from potential interactions with the fish farm"*.⁵⁴
- 30 We note that the final SMP conditions have had input from DOC experts and that the Plan is to be completed and certified prior to the construction of marine farm structures, with ongoing monitoring and review required. Furthermore, on 1 July 2026 a letter from DOC confirmed that; *"DOC staff have reviewed the Draft Shark Management Plan (SMP) dated June 2025 that was lodged with the substantive application and are comfortable with this version"*.

Conditions Proposed to Manage Shark Effects

Certification Conditions – Conditions 2 to 5
Shark Management – Conditions 49 to 55

Wild Fish

- 31 The Applicant relied on the advice provided by P Taylor and T Dempster in 2021 on the effects of salmon farming in the Project area on wild fish species.⁵⁵ Data from other fish farms in New Zealand and internationally was utilised in the assessment, and the authors concluded that while fish can be attracted to fish farms it was not considered either a positive or negative effect.
- 32 The assessment notes that while there may be changes to the availability of food for wild fish (through waste feed and changes to the benthic species), harmful contaminants such as organ halogenated compounds and heavy metals are not expected to build up to levels that would affect fish health. The assessment concludes that the effects of marine farming on wild fish in the area of the HAP would be likely to be no more than minor.

Conditions Proposed to Manage Wild Fish Effects

No Specific Conditions

Biosecurity and Disease Risk Effects

- 33 B Forrest (*Salt Ecology*) and Dr C Johnston (*Brightwater Partners*) provided an assessment of the marine biosecurity risks associated with the HAP.⁵⁶ The authors considered the risks associated with the introduction of new organisms (specifically

⁵⁴ Department of Conservation section 53 comments, 23 April 2026.

⁵⁵ Statfishtics and Melbourne University, August 2021. *A discussion on the effects of salmon farming on the wild fish fauna of an area in Foveaux Strait and management options for avoiding, remedying, and mitigating any adverse effects including proposed methods for monitoring and investigating the impact of deploying a sea pen salmon farm in the area.* Appendix Q of the Application.

⁵⁶ Salt Ecology, September 2025. *Hananui Aquaculture Project: Marine Biosecurity Assessment of Effects.* Appendix U of the Application.

marine pests and pathogens) and factors that would spread others that are already present, alongside processes associated with the HAP that would impact these.

- 34 Possible biosecurity risk pathways for the introduction of new pests or the spread of pathogens include the movement of vessels in the area, the presence of farmed salmon stock and biofouling of farm structures and vessels. Each of these can be mitigated through the measures outlined in the Biosecurity Management Plan (**BMP**) prepared by the Applicant. With the implementation of these measures, Forrest and Johnston considered the biosecurity risks of these pathways to be negligible to minor. The impact on the Bluff oyster fishery was also considered by the experts, who concluded that the risk from HAP would be extremely low.
- 35 Overall, it was concluded that the implementation of the measures within the BMP ensured that the effect of the HAP would be no more than minor.
- 36 ES have reviewed the relevant conditions and BMP and confirmed in its section 53 comments dated 29 April 2026 that they have had input into the BMP.

Conditions Proposed to Manage Biodiversity and Disease Risk Effects

Certification Conditions – Conditions 2 to 5
Biosecurity – Conditions 56 to 62

Effects on Natural Character, Landscape and Visual Amenity

- 37 The assessment provided by Mr Brad Coombs of *Isthmus*⁵⁷ and the report prepared by Ms Alicia Cain for *Te Ao Mārama Inc* and *Ngāi Tahu ki Murihiku*⁵⁸ are linked through the memo from Mr Coombs and Ms Cain from Kauati.⁵⁹ This memo describes the methodology utilised for the assessment of natural character, landscape and visual amenity where both a western and a Mātauranga Māori perspective was employed. Although the approaches are informed by different cultural lenses, they arrive at largely consistent conclusions about the appropriateness of the HAP.
- 38 The overall conclusion reached by Mr Coombs was that the HAP will not result in adverse effects on identified outstanding natural features, landscape, or natural character values and can be appropriately integrated into the landscape and seascape of Te Ara a Kiwa. The peer review undertaken on behalf of ES by Mr Mike Moore also largely aligned with the views of the assessment provided by Mr Coombs.
- 39 The assessment prepared by Ms Cain summarises the views of manawhenua in that for Ngā Rūnaka ki Murihiku the HAP is also considered to be located appropriately and will enable manawhenua to remain connected with place as described above.
- 40 The Panel undertook a site visit on 14 April 2026 and took the opportunity to view the proposed site from the key land-based Rakiura locations assessed by the landscape architects and Ms Cain. While not experts in this field it was helpful for us to correlate the expert advice with our own observations.

⁵⁷ Isthmus, 20 November 2025. *Natural Character, Landscape and Visual Assessment Report*. Appendix T of the Application.

⁵⁸ Te Ao Mārama Inc, July 2025. *Ngā Hua o Āpiti Hono Tātai Hono Proposed Hananui Aquaculture Area, 2022 updated July 2025*. Appendix D of the Application.

⁵⁹ Isthmus and Kauati, 24 November 2025. *Āpiti Hono Tātai Hono and Landscape Assessments*. Appendix EE of the Application.

Conditions Proposed to Manage Natural Character, Landscape and Visual Amenity Effects

No specific conditions

Cultural Effects

- 41 A comprehensive Cultural Impact Assessment was prepared on behalf of Ngā Rūnaka ki Murihiku by Dr Gail Tipa of *Tipa and Associates Limited*. The report outlines adverse cultural effects to be avoided and acknowledges that some of the issues can be addressed by consent conditions and monitoring, while other require ongoing discussions with Ngā Rūnaka.
- 42 Comments under section 53 of the FTAA were received from TRONT on 30 April 2026 where in supporting the application noted in their conclusions that: "*The project is a contemporary expression of mahinga kai, which will enable Ngāi Tahu to continue their traditional and ongoing relationship with Te Ara a Kiwa and Rakiura as mana whenua/mana moana.*"
- 43 Te Ao Marama Inc. (on behalf of Ngā Rūnaka ki Murihiku) commented pursuant to section 53 of the FTAA on 29 April 2026 and in these comments affirms their support for the HAP, noting they have been closely involved in the Project's development and that they support the conditions framework.
- 44 As referenced above the RTIAB have commented on the proposal under section 53 of the FTAA. Their specific concern is potential impacts on Titi (Sooty Shearwater, *Ardenna grisea*) and they seek further involvement. The process issues associated with the RTIAB and their relationship with the Applicant and administering agencies is discussed elsewhere in this Decision.

Conditions Proposed to Manage Cultural Effects

Hananui Community, Environmental, and Health & Education Funds – Conditions 87 to 91 [Noting these are "Augier Conditions" and also include wider community support]

Effects on Navigation

- 45 The Applicant provided an assessment of navigation risks of the HAP prepared by G Birmingham of *Navigatus*⁶⁰ where the impact of marine farm structures and feed barges, and the potential hazards of mooring failure are considered. The assessment concludes that the Project's navigation risks would be low with the implementation of the proposed marking and lighting, robust design, and ongoing monitoring of the mooring structures.
- 46 In its 29 April 2026 section 53 comments, ES confirmed that the Harbour master has closely scrutinised the application material associated with navigational safety and has not raised any specific concerns. The comments do discuss potential breakaway event and their response, along with the need for appropriate decommissioning conditions. These aspects were discussed with the Panel at the 23 June Conditions Workshop. ES has confirmed to the EPA in an email dated 30 June 2026, which the Panel has seen,

⁶⁰ Navigatus, 6 November 2025. *Hananui Aquaculture Project Navigational Risk Assessment*. Appendix L of the Application.

that they have liaised with the Applicant and agreed with the Applicant on updated condition wording.

Conditions Proposed to Manage Effects on Navigation

Structures – Conditions 10 to 28
Navigational Safety – Conditions 29 to 30
Boat Traffic – Conditions 67 to 68

Effects on Commercial Fisheries

- 47 The spatial displacement of fishing effort and environmental changes affecting wild fish were considered by Ms Nicola Gibbs of *Fathom Consulting Ltd*⁶¹ to be the primary effects of the HAP on commercial fisheries operating in the area. The conclusion of the assessment based on existing data was that overall, at a fishery wide level, fishing effort will not be impacted and while some individual fishers may see an impact, this was no more than minor. The assessment also concludes that the HAP may attract some commercially harvested fish, such as blue cod, but any changes are expected to be localised and are not expected to affect fish populations overall.
- 48 Overall, Ms Gibbs determined that the HAP has been designed to avoid important fish habitats, and potential concerns about seafood safety, diver safety, debris, vessel interactions, and increased recreational fishing can be managed.

Conditions Proposed to Manage Effects on Commercial Fisheries

No specific conditions

Effects on Recreation and Tourism

- 49 Ms Sam Strong of *Thrive Spaces and Places*⁶² prepared an assessment of the effects on recreation and tourism values of the HAP. Consultation informed the assessment alongside review of other relevant technical assessments. In considering matters raised, Ms Strong reached the conclusion that overall any effects on recreational values and on public access as a result of the HAP would be no more than minor.

Conditions Proposed to Manage Effects on Recreation and Tourism

No specific conditions

Noise Effects

- 50 An independent technical assessment of noise effects was not provided with the Substantive Application with the Applicant noting that the relevant noise standards are expected to be achieved based on data from other salmon farm sites.

Conditions Proposed to Manage Effects on Noise Effects

No specific conditions

⁶¹ Fathom Consulting Ltd, 30 September 2025. *Hananui Aquaculture Project: Characterisation and assessment of potential impacts on commercial fishing*. Appendix S of the Application.

⁶² Thrive Spaces and Places, October 2025. *Hananui Aquaculture Project Recreation and Tourism Assessment*. Appendix R of the Application.

Effects from Waste Material and Hazardous Substances

- 51 Based on their own experience the Applicant provided an overview of the initiatives that will be undertaken to reduce any adverse effects from waste materials and hazardous substance and committed to the development of standard operating procedure to address. They have included in the proposed conditions appropriate Waste Management conditions.

Conditions Proposed to Manage Effects from Waste Material and Hazardous Substances

Waste Management – Condition 63

Economic Benefits and Costs

- 52 Mr Lawrence McIlrath, a Director of *Market Economics Ltd* produced an Economic Assessment Report.⁶³ His key findings have been discussed above, but are outlined in more detail below:

In addition to the capital costs, economic resources are used to produce the goods. These resources have costs that must be considered. The present value (discounted at 2% over 30 years) of the key items are:

Benefit⁶⁴

- Foreign receipts earned (export, gross) \$5.04bn,
- Labour benefit (gross) \$0.8bn,
- Terminal value \$25m.

Costs

- Establishment costs \$218m,
- Resources used \$5.01bn,
- Employment/labour costs \$0.75bn

The size of the potential (gross) benefits is clear, over \$5.8bn in gross benefits with the bulk of this being associated with the foreign receipts generated for New Zealand. A portion of the benefits is associated the labour market shifts. The total benefits are delivered after the capital expenditure (costs) associated with the infrastructure investment. The business activity incurs a range of costs in the form of economic resources used and this is estimated at \$5.01bn.⁶⁵ The labour cost (opportunity cost) is estimated to be in the order of \$0.75bn and is based on the salary and wage costs observed in the seafood processing sector (a conservative position).⁶⁶

- 53 As also discussed above, Ms Bobbi Brown, General Manager of Regional Strategy at Great South provided comments under section 53 of the FTAA on 7 April 2026. Ms Brown takes a more circumspect approach noting that the Market Economics Report presents a Business-as-Usual scenario out to 2050 that may be implausible for a

⁶³ Market Economics Ltd, November 2025. *Hananui Aquaculture Project Economic Assessment*. Appendix I of the Application.

⁶⁴ The value excludes any benefits that New Zealand consumers might enjoy from the lift in product that is available, including increase consumption, lower prices or consumer surplus. The direct value is estimated at \$1bn (over 30 years, discounted at 2%).

⁶⁵ The difference between the gross benefit and the cost of resources used is a proxy for producers surplus.

⁶⁶ The potential gain in salaries for people attracted to the venture is assumed to be +5%. For context, the sectoral average wage/salary is estimated at \$68,500/year, which is 40% greater than the minimum wage.

variety of environmental reasons. She references their own analysis in a report they commissioned by *Infometrics*.⁶⁷ That report suggests that the economic benefits of the HAP are more conservative with full scale revenue estimated at \$498m.

- 54 The Panel notes that in the Applicant's response to the Great South comments dated 7 May 2026 that draws on additional evidence from Mr McIlrath that:

NTS remains confident in the input data and assumptions provided for the modelling exercise. While we acknowledge Great South's perspective, we consider the modelling assumptions reflect the specific characteristics and operational context of the proposed project, rather than a simple 'business as usual' scenario.

Value Added and Employment Impacts

- 55 In his Economic Assessment, Mr Mr McIlrath covers his assessment of Value Added and Employment Impacts based on two scenarios. In summary his analysis indicates:

- One-off/establishment impacts in the Southland Region of between \$61m (High Imports) and \$78m (Domestically Supplied);
- New Zealand wide one-off/establishment impacts of between \$175m (High Imports) and \$215m (Domestically Supplied);
- Ongoing/operational impacts in the Southland Region between \$781m (High Imports) and \$888m (Domestically Supplied);
- New Zealand wide ongoing/operational impacts between \$1.7bn (High Imports) and \$2.05bn (Domestically Supplied);
- Between 200 and 260 jobs for the one-off/establishment activities
- Between 415 and 480 jobs for the ongoing activities.

Cultural and Social Benefits

- 56 The Panel acknowledges the section 53 comments from Te Ao Marama Inc dated 29 April 2026 who recognise the significant opportunity the project presents for Murihuku, including:

- Generation of high-quality employment for whanau;
- Workforce development pathways for rangatahi;
- Increased regional economic activity for long-term industrial stability;
- Opportunities for codesign of research, environmental monitoring, and mātauranga integration; and
- Intergenerational benefits aligned with aspirations for whanau wellbeing and sustainable regional growth.

⁶⁷ Infometrics, July 2025. Southland Aquaculture and Fishing baseline and Forecast Scenarios for Great South.

PART G: EVALUATION OF PLANNING AND POLICY FRAMEWORK

- 1 This section considers those planning and regulatory instruments that are relevant to the HAP.
- 2 The AEE addressed the relevant statutory documents and identified relevant provisions.⁶⁸ These are:
 - a. New Zealand Coastal Policy Statement (**NZCPS**)
 - b. Southland Regional Policy Statement (**RPS**)
 - c. RCP
 - d. Te Tangi a Taurira The Cry of the People (Te Tangi a Taurira)
 - e. Stewart Island/Rakiura Conservation Management Strategy (**CMS**) and Rakiura National Park Management Plan (**NPMP**)
 - f. New Zealand Aquaculture Strategy 2019 (**NZAS**)
 - g. New Zealand Aquaculture Development Plan 2025-2030 (**NZADP**)
 - h. Muruhiku Southland Aquaculture Pathway 2025 (**MSAP**)
- 3 The Panel has carefully considered the analysis of all of these provisions. Rather than repeat that analysis, this section addresses the provisions of particular relevance to the Application and any comments received in relation to these documents.

National Policy Statements

- 4 The only relevant National Policy Statement that we must take into account under clause 17 of the FTAA is the NZCPS, which was addressed in section 13.5.1 of the Application.
- 5 The NZCPS relates to the coastal environment (**CE**). It includes various provisions that relate to protecting and preserving particular areas or values within the CE. Of particular relevance to the HAP, this includes:
 - a. Under Policy 3, the adoption of a precautionary approach towards proposed activities whose effects on the CE are uncertain, unknown, or little understood, but potentially significantly adverse.
 - b. Under Policy 11, direction on how indigenous biological diversity in the CE is to be protected.
 - c. Under Policy 13, outlining how the natural character of the CE is to be preserved and protected from inappropriate subdivision, use, and development.
 - d. Under Policy 15, outlining how natural features and natural landscapes (including seascape) of the CE are to be protected from inappropriate subdivision, use, and

⁶⁸ Sections 13.5.1 – 13.5.7 of the Application.

development.

- e. Under Policies 22 and 23, providing direction on the discharge of contaminants.
- 6 The NZCPS also includes provisions relating to the use of the CE (and how this contributes to wellbeing), with Objective 6 noting that functionally some uses and developments can only be located in the CMA, and that "*the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits*".
- 7 Policy 8 is specific to aquaculture, and outlines how the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities is to be recognised. Clause (a) includes direction for regional coastal plans to include provision for aquaculture activities in appropriate places in the CE, and clause (b), updated through amendments made in 2025, requires taking into account the ecological, cultural, social and economic benefits of aquaculture.
- 8 The NCZPS also includes provisions setting out how the principles of the Treaty of Waitangi are to be taken into account, and the involvement of tangata whenua provided for, in the management of the CE (Objective 3 and Policy 2).
- 9 In its feedback, ES notes that amendments were made to the NZCPS that took effect on 15 January 2026, after the substantive application for the Project was lodged. It notes, relevantly, that changes were made to Policy 8, pertaining to aquaculture activities. Specifically, when recognising the significant existing and potential contribution of aquaculture to the social, economic and cultural well-being of people and communities, Policy 8 now requires decision-makers to take into account wider benefits, including the ecological and cultural benefits of aquaculture (rather than only social and economic benefits previously). ES states in relation to this, that an important benefit of the Project is the way it is enabling of cultural well-being as a modern expression of mahinga kai.⁶⁹
- 10 DOC states that the potential effect on benthic habitat that is of most concern to it, is the deposition of organic material on ecologically significant indigenous biogenic ecosystems. It states that there are three types of biogenic habitat known to exist in the area, and these represent "*indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare*". As such, DOC submits that Policy 11(a)(iii) of the NZCPS applies to these habitats, requiring that adverse effects on these types of habitats are avoided (and that this direction takes precedence over the less strict approach to effects management set out in Policy 11(b)(ii)).⁷⁰
- 11 DOC also raises concerns that the modelling undertaken by the Applicant predicts that, due to the strong currents and resuspension of farm waste, farm-related organic deposition would be dispersed into areas around the farms, where biogenic habitats exist, with the effects of this on biogenic ecosystems being unknown, due to salmon farming not having been undertaken in this type of environment previously, and because the assessment is based on a predictive mathematical model, rather than monitoring of existing activities. It holds concerns that if damage does occur to frame-building bryozoan habitats, recovery can be slow. In this context, DOC considers the

⁶⁹ Environment Southland section 53 comments, dated 29 April 2026, Section 1.4.

⁷⁰ Department of Conservation section 53 comments, dated 23 April 2026, paragraphs 3.3.2-3.3.3

requirement in Policy 3 to adopt a precautionary approach is relevant, and seeks a condition to 'enforce' specific setbacks distances from biogenic habitat.⁷¹

- 12 In terms of Policies 13 and 15 of the NZCPS, which pertain to areas of outstanding natural character and on outstanding natural features and landscapes, DOC consider that landscape and natural character are key considerations for the Panel given the relatively unspoilt nature of the northern Rakiura landscape / seascape and the direction of these policies in relation to this landscape/ seascape. It considers that that a robust assessment of potential adverse effects on natural character and landscape is required, in terms of the Panel's consideration under section 85 of the FTAA, as to whether any adverse impacts of a project are sufficiently significant to be out of proportion to the project's regional or national benefits, after taking into account potential modifications and conditions. DOC suggested that the Panel commission its own review of the Applicant's landscape and natural character assessment or additional independent landscape advice. The Panel considered this request, but decided against seeking any further landscape assessment, given the peer review of the Applicant's landscape assessment already undertaken on behalf of ES.
- 13 NZCA notes that the assessment undertaken by the Applicant against Policy 11 of the NZCPS does not include consideration of marine macroalgae, or of habitats and ecosystems that are defined by marine macroalgae, such as coralline algae and rhodoliths, which it considers fall within those areas or habitats referred to in Policy 11(b)(i)-(iii). This directs significant adverse effects on these areas/habitats to be avoided, and other adverse effects to be avoided, remedied or mitigated.⁷²
- 14 MPI considers that the Application is consistent with policies 8, 11 and 12 of the NZCPS.

Southland Regional Policy Statement (RPS)

- 15 The relevant provisions from the RPS are set out and evaluated in section 13.5.2 of the Application, under the following themes:
 - a. Marine farming policy framework
 - b. Management of the Southland CMA and CE
 - c. Recognising and providing for Ngāi Tahu values and uses
 - d. Seabed deposition
 - e. Water quality
 - f. Indigenous fauna
 - g. Landscape and natural character
 - h. Amenity values
- 16 We note that, in its comments, ES notes that it has engaged with the Applicant in

⁷¹ Department of Conservation section 53 comments, dated 23 April 2026, paragraphs 3.3.5 – 3.3.8.

⁷² New Zealand Conservation Authority section 53 comments, page 9.

relation to various aspects of the relevant planning framework in the preparation of the Application; and that having reviewed the Applicant's analysis of the RPS (being an ES planning document), it agrees with that analysis.⁷³

- 17 No other section 53 parties commented specifically on the RPS provisions.

Southland Regional Coastal Plan (RCP)

- 18 NTS seeks all necessary consents under the RCP to authorise activities associated with the construction and on-going operation of the HAP, as outlined in section 8.2.2 of the Application. While most activities were classified as discretionary, one component of the activity triggered a non-complying consent requirement (being the introduction of exotic fauna). As discussed earlier the FTAA disapplies s 104D, and therefore the Project is to be assessed by the Panel as a discretionary activity. The RCP contains objectives and policies for the management of activities in the CMA.
- 19 The Applicant identified and assessed the relevant provisions in the RCP under the following themes:
- a. Marine farming policy framework
 - b. Management of the Southland CMA and CE
 - c. Functional need to locate in, and occupation of, the CMA
 - d. Recognising and providing for Ngāi Tahu values and uses
 - e. Providing for social and economic utilisation
 - f. General management of structures
 - g. Seabed deposition
 - h. Water quality
 - i. Indigenous fauna
 - j. Landscape and natural character
 - k. Amenity values
 - l. Navigational effects
 - m. Biosecurity and introduction of exotic fauna
 - n. Public access
 - o. Noise

⁷³ Environment Southland section 53 comments, dated 29 April 2026, Section 1.3.

p. Lighting and glare

- 20 As with the RPS, we note that ES comments on its engagement with the Applicant in relation to various aspects of the relevant planning framework in the preparation of the Application; and that having reviewed the Applicant's analysis of the RCP (being an ES planning document), it agrees with that analysis.⁷⁴
- 21 ES further notes that the provisions in the RCP pertaining to marine farming were formulated in the late 1990s/early 2000s, prior to both the NZCPS and the MAS. In particular, it notes that the RCP does not include any spatial planning to identify specific parts of the Southland CMA where open ocean aquaculture is directed towards. Its intended full review of the RCP, including the marine farming provisions, has not progressed due to the Government's "plan stop" legislation. It is in this context that ES states the Application is consistent with the relevant regional planning documents; and that given the age of the RCP, it is appropriate to refer to the NZCPS and Part 2 of the RMA when applying the RCP and assessing the Project.⁷⁵
- 22 No other section 53 parties commented specifically on the RCP provisions.

Planning documents recognised by a relevant iwi authority and lodged with the Council

- 23 An application for a resource consent must include an assessment of the activity against any relevant provisions of a planning document recognised by a relevant iwi authority and lodged with a local authority.⁷⁶
- a. The only planning document recognised by relevant iwi authorities that has been lodged with the Council is Te Tangi a Taurira The Cry of the People (Te Tangi a Taurira).
- b. The Applicant identified and assessed the relevant provisions in Te Tangi a Taurira in section 13.5.4 of the Application.
- c. No section 53 parties commented specifically on the Te Tangi a Taurira.

Stewart Island / Rakiura Conservation Management Strategy (CMS) and Rakiura National Park Management Plan (NPMP)

- 24 The Applicant states that the provisions in the CMS of most relevance to the HAP are those relating to marine ecosystems, habitats and species. It notes that many objectives and policies relate to DOC's advocacy, research and administrative functions, and that of those relating to environmental effects of relevance to this Application, the objectives and policies are consistent with those of the NZCPS, RPS and RCP. In relation to the NPMP, the Application notes that this addresses activities within the National Park itself, and states that as the HAP site boundary is located approximately 2 km offshore from the National Plan, and does not include any land-based activities on the adjacent shore, that it is not relevant to the Application.⁷⁷
- 25 NZCA notes that Rakiura National Park is subject to the CMS. It considers that the Park

⁷⁴ Environment Southland section 53 comments, dated 29 April 2026, Section 1.3.

⁷⁵ Environment Southland section 53 comments, dated 29 April 2026, Section 1.4.

⁷⁶ Schedule 5, clause 5(1)(h) and clause 5(2)(g) of the FTAA.

⁷⁷ Section 13.5 of the Application.

is heavily influenced by the marine environment, given the proximity of visitors, structures, facilities and infrastructure on the island, to the sea.

- 26 NZCA also refers to provisions in the NPMP that seek to integrate the management of indigenous species and ecosystems within Rakiura National Park, with the neighbouring marine environment surrounding much of the National Park, given that indigenous species do not follow management boundaries, and can be adversely affected by human activities in areas outside of National Park itself.
- 27 NZCA go on to note that while the assessment of the HAP has considered mitigation of visual impacts, it still considers that there will be impacts on the naturalness and sense of remoteness along the eastern coast of the National Park adjacent to the proposed fish farm sites.
- 28 In the WAR, DOC state that in its view, the wildlife approval application is not inconsistent with the objectives, outcomes or policies of the CMS and NPMP.

Aquaculture Strategies and Plans

New Zealand Aquaculture Strategy 2019 (NZAS)

- 29 The Applicant comments on the NZAS in section 13.5.5 of the Application. We note that the NZAS sets out the intended pathway for the growth of aquaculture in New Zealand, and the Government work plan to support it. The pathway includes a goal of \$3 billion in annual sales by 2035. The NZAS includes objectives for aquaculture to become a more productive industry that further supports regional prosperity, and one which is sustainable, resilient and inclusive. This strategy also recognises the importance of partnering with iwi.
- 30 The Minister for the South Island states that the Project aligns with the Strategy's aims to develop sustainable growth pathways to open aquaculture.

New Zealand Aquaculture Development Plan 2025-2030 (NZADP)

- 31 The Applicant comments on the NZADP in section 13.5.6 of the Application, noting that it sets out actions the Government will take to achieve the goal set out in the NZAS – of enabling the aquaculture industry to reach \$3 billion in annual revenue by 2035. The Application notes that one of the key pathways to achieving this goal is to extend aquaculture into the open ocean, and states that the HAP will make a significant contribution to this goal being met. It is also noted that the NZADP refers to the opportunities for partnership with iwi in aquaculture.
- 32 In their comments, MPI, and the Minister for Oceans and Fisheries and Minister for Regional Development agree that the HAP would contribute towards achievement of the \$3 billion goal set out in the NZADP. The Minister further comments that the HAP aligns with the goal of the NZADP to support Māori Aquaculture opportunities.

Muruhiku Southland Aquaculture Pathway 2025 (MSAP)

- 33 The Applicant comments on the MSAP in section 13.5.7 of the Application, noting that Great South, the Regional Development Agency, was responsible for preparing this document. To provide for growth of aquaculture in the region, the MSAP identifies 5 goals, with 9 focus areas and 17 projects identified that are considered to support the achievement of those goals. Of note, Goal 5 seeks to extend aquaculture into the open ocean. The HAP is also one of the identified projects.

- 34 In its comments, Great South states that the MSAP articulates how the region can become a leading aquaculture region, grounded in sustainable aquaculture practices, that balances support for a thriving, resilient aquaculture industry that generates economic opportunity, with protection of the health and integrity of the region's moana. It considers the HAP to be a key enabler and critical step for the region to achieve the aspirations set out in the MSAP.
- 35 ES, a signatory to the MSAP, considers that the Project will make a significant contribution to achieving the aquaculture growth aspirations outlined in this document.⁷⁸

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⁷⁸ Environment Southland section 53 comments, dated 29 April 2026, Section 1.2.

PART H: ASSESSMENT FRAMEWORK – RMA APPROVALS

Decision-Making Criteria

- 36 In considering whether to grant resource consents, we must apply clauses 17 – 22 of Schedule 5 to the FTAA.⁷⁹
- 37 Clause 17 contains the primary criteria for the RMA approval and is discussed below. Clause 18 deals with conditions and is discussed at below, and clause 19 is not relevant to this Application. Clauses 20-22 describes the process for an aquaculture decision and is discussed at [Part J](#) below.
- 38 Clause 17 is set out in full below:

17 Criteria and other matters for assessment of consent application

- (1) *For the purposes of section 81, when considering a consent application, including conditions in accordance with clauses 18 and 19, the panel must take into account, giving the greatest weight to paragraph (a),*
 - (a) *the purpose of this Act; and*
 - (b) *the provisions of Parts 2, 3, 6, and 8 to 10 of the Resource Management Act 1991 that direct decision making on an application for a resource consent (but excluding section 104D of that Act); and*
 - (c) *the relevant provisions of any other legislation that directs decision making under the Resource Management Act 1991.*
- (2) *For the purpose of applying any provisions in subclause (1),—*
 - (a) *a reference in the Resource Management Act 1991 to Part 2 of that Act must be read as a reference to sections 5, 6, and 7 of that Act; and*
 - (b) *if the consent application relates to an activity that is the subject of a determination under section 23 of this Act, the panel must treat the effects of the activity on the relevant land and on the rights or interests of Māori as a relevant matter under section 6(e) of the Resource Management Act 1991; and*
 - (c) *to avoid doubt, for the purposes of subclause (1)(b), when taking into account section 104(1)(c) of the Resource Management Act 1991, any Mana Whakahono ā Rohe or joint management agreement that is relevant to the approval is a relevant matter.*
- (3) *Subclause (4) applies to any provision of the Resource Management Act 1991 (including, for example, section 87A(6)) or any other Act referred to in subclause (1)(c) that would require a decision maker to decline an application for a resource consent.*
- (4) *For the purposes of subclause (1), the panel must take into account that the provision referred to in subclause (3) would normally require an application to be declined, but must not treat the provision as requiring the panel to decline the application the panel is considering.*
- (5) *In the case of an application for a coastal permit for aquaculture activities, if the panel makes a reservation under clause 20 in relation to recreational fishing or customary fishing or commercial fishing in relation to stocks or species not subject to the quota management system, the panel must not grant the coastal permit in respect of the areas covered by the reservation.*
- (6) *For the purposes of subclause (1), the provisions referred to in that subclause must be read with all necessary modifications, including that a reference to a consent authority must be read as a reference to a panel.*
- (7) *Sections 123 and 123A of the Resource Management Act 1991 apply to a decision of the panel on the consent.*

- 39 In accordance with the criteria in clause 17, the Panel:
- a. has applied the criteria individually, before applying the greatest weight to the purpose of the FTAA (an approach that has been adopted in the majority of Panel decisions to date);

⁷⁹ Section 81(2)(a) of the FTAA.

- b. has not applied section 104D of the RMA;
- c. has applied Part 2 of the RMA by reference to sections 5, 6 and 7;
- d. has not been directed to (and has therefore not applied) any relevant provisions of any other legislation that directs decision making under the RMA;
- e. has considered and applied all of the relevant criteria, but has limited its substantive discussion of those criteria to the principal issues in dispute; and
- f. has summarised its assessment of criteria in this Part, but to avoid duplication has cross-referred to substantive consideration of some issues at other parts of the Decision.

Purpose of the FTAA

- 40 By reference to Part E above, the Panel finds that the HAP will generate significant regional benefits, and the HAP is otherwise entirely consistent with the purpose of the FTAA.

Effects of the HAP

- 41 Under section 104(1)(a) and (ab) of the RMA, the Panel is required to have regard to any positive effects of the HAP, together with any measures agreed to by the Applicant that would ensure positive effects on the environment or to offset or compensate for any adverse effects.
- 42 In regards to positive effects, and by reference to Part F above, the Panel finds that:
- a. The HAP will generate significant positive economic, social and cultural effects.
 - b. The proposed community fund represents a measure that falls under section 104(1)(ab) of the RMA, and which is offered on an *Augier* basis. The Panel may accept or reject this condition, but may not alter it. The Panel confirms its acceptance of this condition and has included it in the draft conditions of the RMA approval.
- 43 Under section 104(1)(a) of the RMA, the Panel is required to have regard to any adverse effects resulting from the HAP, after considering the ameliorating effect and conditions imposed to avoid, remedy or mitigate those effects. Consistent with our obligation to focus our decision on the principal issues in contention, we make the following findings in respect of adverse effects (recording expressly that these findings are contingent on the recommended conditions that we attach to this decision):
- a. Adverse effects on natural character and landscape effects will be minor, primarily because of the limited visibility of the operations from the shoreline and the distance of the activities from the shoreline. While the HAP will be visible from Hananui / Mt Anglem, we do not consider that such an activity is inappropriate or that it results in significant adverse natural character or landscape effects.
 - b. Adverse effects on marine mammals, sharks and seabirds (including in particular Titi and Hoiho), will be minor. Although there remains an unavoidable risk of entanglement of fauna with the fish pens, the Panel is satisfied that these risks

have been appropriately addressed by the proposed conditions of consent.

- c. Adverse effects on the seabed will be more than minor directly beneath the HAP, but will reduce in severity further from the proposed fish pens. Because the fish pens have been located in areas devoid of sensitive biogenic habitat, the Panel is satisfied that the adverse impacts on that habitat will be no more than minor.
- d. Adverse impacts on other wild fish, recreation, and commercial activities (including effects on navigation) will be less than minor.

[To update findings after receipt of comments on draft decision]

Relevant Planning or Regulatory Instruments

- 44 Under section 104(1)(b) of the RMA, the Panel is required to have regard to the relevant provisions of any national or regional planning instruments.
- 45 The AEE addressed the relevant statutory documents and identified relevant provisions.⁸⁰ In Part G above, the Panel has recorded the key planning provisions relevant to the HAP and the parties' positions on those instruments.
- 46 The Panel adopts and endorses the Applicant's assessment of the NZCPS provisions, and in summary the Panel makes the following key findings in respect of the NZCPS:
 - a. The HAP is consistent with the NZCPS, as amended in December 2025. While those amendments were made after the HAP was lodged, absent any transitional provisions deferring the effect of those changes, the Panel is required to apply the NZCPS as it exists at the date of making its decision.
 - b. In regards to the NZCPS, and with reference to the Panel's finding on landscape and natural character effects above:
 - (a) The HAP is strongly aligned with Policy 8;
 - (b) Subject to the conditions proposed, the HAP will be consistent with the requirements of Policy 11; and
 - (c) The Panel finds that the HAP is not contrary to Policies 13 and 15. In particular, the Panel is satisfied that, in its proposed location and subject to the proposed conditions, the HAP is not an inappropriate use. Further, subject to those conditions, the Panel considers that the HAP will not adversely affect those areas of the CE that have outstanding natural character or natural features/landscapes, and nor does the Panel consider that the HAP will have significant adverse effects on the natural character or natural features/landscapes of other areas of the CE.
- 47 We have read carefully and accept the Applicant's assessment of the RPS. Given the agreement with ES on the Applicant's RPS assessment, and that no other parties raised any matters of disagreement in relation to the RPS assessment, we do not consider it

⁸⁰ Sections 13.5.1 – 13.5.7 of the Application.

necessary to summarise or comment on the specific provisions of the RPS further.

- 48 The RCP was made operative on 16 March 2013, and has not yet been updated to reflect the more recent changes to planning and policy documents that are more enabling of aquaculture. This point was expressly made by ES in its comments, and the Panel endorses the need for caution in that regard.

49 **[Final findings to be included after receipt of comments]**

Part 2 of the RMA

- 50 Clause 5 (1)(g) of Schedule 5 of the FTAA requires an assessment of the HAP against sections 5, 6 and 7 of the RMA. NTS addressed this in section 13.3 of the Application.
- 51 The purpose of the RMA set out in section 5 is to promote the sustainable management of natural and physical resources. In light of the preceding Parts of this Decision, we are satisfied that the HAP will enable the social and economic wellbeing of Ngai Tahu whānui and the wider Southland Region through the provision of additional and continued employment, and the generation of significant benefits to the local and regional and national economy. Enabling this particular activity will enhance the cultural values of Te Ara a Kiwa by allowing Ngai Tahu to engage directly with and gain sustenance from Te Ara a Kiwa.
- 52 For reasons expressed elsewhere, the Panel is also satisfied that the matters of national importance in section 6 and the matters to which particular regard must be hard in section 7 have all been appropriately addressed by the HAP, and the conditions the Panel has imposed.
- 53 The Panel is therefore satisfied that the HAP will promote the purpose of Part 2 of the RMA (being sections 5, 6 and 7). **[Subject to receipt and review of comments]**

Other Relevant Matters

Sections 7, FTAA – Treaty Settlements

- 54 Section 7(1) of the FTAA requires all persons performing and exercising functions, powers and duties under the Act to act in a manner that is consistent with the obligations arising under any Treaty settlements, and with any customary rights recognised under, relevantly, the Marine and Coastal Area (Takutai Moana) Act 2011.
- 55 The Panel considers that it is performing a judicial function in making the Decision, and under section 7(2), that obligation would not apply to it. However, for the avoidance of doubt, if that obligation in section 7(1) does apply to it, the Panel confirms that:
- a. It has considered the relevant Treaty settlements that apply to Te Ara a Kiwa, and concludes that the HAP is consistent with those settlements.
 - b. While the RTIAB was established under the Ngai Tahu Treaty Settlement, the Panel has concluded that the rights conferred on the RTIAB under that settlement is limited to specified islands and does not extend to that part of Te Ara a Kiwa proposed to be occupied by the HAP.
 - c. It understands that the RIGL have obtained a customary right under the Marine and Coastal Area (Takutai Moana) Act 2011, but has determined that the HAP does

not overlap with, or materially affect the rights conferred by, that customary right.

- d. While the RTIAB enjoys customary rights (in the wider sense of that phrase), the obligation on the Panel to act consistently with customary rights only applies, in this case, to those rights conferred by the Marine and Coastal Area (Takutai Moana) Act 2011. RTIAB does not hold any such rights. **[To be reviewed after comments received on conditions]**

Section 82, FTAA

- 56 For the reasons set out above, the Panel does not consider that the any Treaty settlement or customary right is relevant in respect of the RTIAB and the RIGL. The Ngai Tahu Treaty settlement is however relevant to the HAP, and accordingly section 82 applies.
- 57 Section 82(2) requires that *"If the settlement or Act provides for the consideration of any document, the panel must give the document the same or equivalent effect through the panel's decision making as it would have under any relevant specified Act."* **[To be reviewed after comments received]**
- 58 Under section 82(3), the Panel must also consider whether granting the approval would comply with section 7. The Panel has done so and concluded that it would. **[To be reviewed after comments received]**
- Conclusion**
- 59 The Panel's overall findings in respect of the RMA approvals are set out formally at Part N below.

PART I: ASSESSMENT FRAMEWORK – WILDLIFE ACT APPROVALS

Decision-Making Criteria

- 1 In considering whether to grant a Wildlife Act approval, the Panel must apply Schedule 7 of the FTAA. Clause 5 of that Schedule contains the primary criteria.
- 2 In accordance with the criteria in clause 5, the Panel is required to take into account:
 - a. the purpose of the FTAA;
 - b. the purpose of the Wildlife Act 1953 - which the Panel considers to be the protection of species and particular populations of wildlife that are at risk;
 - c. the effects of the Project on the protected wildlife that is to be covered by the approval – including sharks and seabirds; and
 - d. information and requirements relating to the protected wildlife that is to be covered by the approval (including, as the case may be, in the New Zealand Threat Classification System or any relevant international conservation agreement)
- 3 As with other approvals, the Panel:
 - a. is required to give the greatest weight to the purpose of the FTAA and, as with other approvals, the Panel has applied the listed criteria individually before applying any weight to the purpose of the FTAA;
 - b. has considered and applied all of the relevant criteria, but has limited its substantive discussion of those criteria to the principal issues in dispute; and
 - c. has summarised its assessment of criteria in this Part, but to avoid duplication has cross-referred to substantive consideration of some issues at other parts of the Decision.

Assessment

- 4 The purpose of the FTAA and the HAP's alignment with that purpose is addressed elsewhere in the Decision. For the purposes of the Wildlife Act approvals, that purpose has been front of mind for the Panel.
- 5 Likewise, the Panel is cognisant of the purpose of the Wildlife Act, and in particular the risks posed to certain protected wildlife who occupy the marine environment in and around the location of the HAP. Subject to the proposed conditions of consent, and with the benefit of having seen and considered the draft management plans and noting DOC's comments in the WAR, the Panel finds that the HAP is consistent with the purpose of the Wildlife Act and that the protected wildlife will be safeguarded to the greatest extent reasonably practicable.
- 6 The Panel's particular findings in respect of the Wildlife Act approvals are as follows:
 - a. The Project is consistent with and will give effect to the purpose of the FTAA.
 - b. Subject to the imposition of the proposed conditions, including the proposed management plans, the Project will appropriately safeguard protected wildlife and

the Project is therefore consistent with the purpose of the FTAA.

- c. While there remains an unavoidable residual risk to protected wildlife, the Panel is satisfied that the proposed conditions and management plans will ensure that this risk is reduced as far as practicable.
 - d. The Panel's findings in this regard are fortified by confirmation from DOC representatives on 1 July 2026 that DOC now agrees with the proposed consent conditions, and have no further comments on the latest drafts of the management plans for sharks and seabirds that are attached to and form part of the Decision. **[To update following receipt of comments on draft conditions]**
- 7 The Panel has not had its attention brought to any further matters that require specific attention (as per paragraph 2(d) above) beyond those matters already addressed. For completeness, the Panel records that it has considered the Marine Mammals Protection Act 1978 and the Marine Mammals Protection Regulations and notes that the Applicant will need to comply with any obligations under that Act and those regulations.

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PART J: ASSESSMENT FRAMEWORK – AQUACULTURE DECISION

Decision-Making Criteria

- 1 The purpose of an aquaculture decision is to determine whether a proposed aquaculture activity would unduly affect commercial fishing, recreational fishing or customary fishing.
- 2 The normal process for making an aquaculture decision is set out in sections 186D, 186E, 186GB and 186H of the Fisheries Act 1996, and requires a decision to be made by the chief executive of MPI. That decision would either be a “determination”, which comprises a finding that the activity will not unduly affect commercial, recreational or customary fishing and that the activity can proceed, or a “reservation”, which is a finding to the contrary and a determination that the activity cannot proceed.
- 3 Under the FTAA, the making of this decision, referred to as an aquaculture decision, has been delegated to the Panel (clause 20, Schedule 5, FTAA). The making of an aquaculture decision under clause 20(5)(b) of the FTAA must be treated as a determination under section 186H(3)(b) of the Fisheries Act 1996.

Procedure and criteria for Chief Executive of MPI

- 4 Under the FTAA:
 - a. The Panel is required to direct the EPA to provide a copy of its draft conditions to the chief executive of MPI, at the same as it complies with section 70(1), FTAA (section 71, FTAA).
 - b. The chief executive must, within 5 working days of receiving those conditions, provide the EPA with a recommendation on the aquaculture decision consisting of either a determination, a reservation, or a combination thereof (clause 15, Schedule 5, FTAA).
 - c. The EPA must provide that recommendation to the Panel (clause 15(7), Schedule 5, FTAA).
- 5 The Panel must then make an aquaculture decision in accordance with the criteria and procedure set out below.

Procedure and criteria for Panel

- 6 In making an aquaculture decision, the Panel must:
 - a. Have regard to the information listed in clause 15(2), namely: information held by the Ministry that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Fisheries Act 1996; information supplied, or submissions made, to the relevant chief executive under clause 14(3)(b); information that is forwarded by the Panel; and any other information that the relevant chief executive has requested and obtained.
 - b. Take into account the purpose of the FTAA, and sections 8 to 10 and 186GB(1) and (2) of the Fisheries Act 1996, giving the greatest weight to the FTAA’s purpose.
 - c. Have regard to the recommendation of the relevant chief executive made

under clause 15.

7 The Panel may make an aquaculture decision that differs from the recommendation of the chief executive (clause 20(4), Schedule 5, FTAA).

8 If the Panel makes a determination, the determination may:

- a. specify any condition of the coastal permit that is material to the decision and that relates to the character, intensity, or scale of the aquaculture activities;
- b. state that the condition may not be changed or cancelled until the relevant chief executive makes a further aquaculture decision under the Fisheries Act 1996 in relation to the area affected by the change or cancellation (clause 20(5), Schedule 5, FTAA).

9 If the Panel makes a reservation, the reservation must also include:

- a. whether the reservation relates to customary, recreational, or commercial fishing, or a combination of them; and
- b. if the reservation relates to commercial fishing, the stocks and areas concerned, specifying any stocks subject to the quota management system and any other stock not subject to the quota management system; and
- c. any other matters required to be included by regulations made under the Fisheries Act 1996, as if the reservation were an aquaculture decision made under that Act (clause 20(6), Schedule 5, FTAA).

10 An aquaculture decision by the Panel must:

- a. be in writing; and
- b. define the areas that are subject to the decision; and
- c. provide reasons for the decision (clause 20(6), Schedule 5, FTAA).

Assessment

11 **[To complete upon receipt of MPI chief executive recommendation]**

Conclusion

12 **[To complete upon receipt of MPI chief executive recommendation]**

PART K: ASSESSMENT OF CONDITIONS ON APPROVALS

Statutory Obligations relating to Conditions

- 1 Section 81 provides that the Panel must set any conditions to be imposed on the approval. The statutory requirements on what conditions are set is determined by what approvals are being sought.
- 2 Section 83 must be complied with and provides:

83 Conditions must be no more onerous than necessary

When exercising a discretion to set a condition under this Act, the panel must not set a condition that is more onerous than necessary to address the reason for which it is set in accordance with the provision of this Act that confers the discretion.

- 3 How the Panel has complied with this section is discussed below in relation to the conditions that have been set.
- 4 If a Treaty settlement or the Marine and Coastal Area (Takutai Moana) Act 2011 is relevant to an approval then section 84 applies. This section allows for the Panel to set conditions to recognise or protect a relevant Treaty settlement and any obligations arising under the Marine and Coastal Area (Takutai Moana) Act 2011.

FTAA requirements for conditions

Resource consent

- 5 For a resource consent the following clauses of Schedule 5 apply:

18 Conditions on resource consent

When setting conditions on a consent, the provisions of Parts 6, 9, and 10 of the Resource Management Act 1991 that are relevant to setting conditions on a resource consent apply to the panel, subject to all necessary modifications, including the following:

- (a) *a reference to a consent authority must be read as a reference to a panel; and*
- (b) *a reference to services or works must be read as a reference to any activities that are the subject of the consent application.*

Wildlife approval

- 6 For the grant of a wildlife approval the following clause of Schedule 7 apply:

6 Conditions

- (1) *A panel may set any conditions on a wildlife approval that the panel considers necessary to manage the effects of the activity on protected wildlife.*
- (2) *In setting any condition under subclause (1), the panel must-*
 - (a) *consider whether the condition would avoid, minimise, or remedy any impacts on protected wildlife that is to be covered by the approval; and*
 - (b) *where more than minor residual impacts on protected wildlife cannot be avoided, minimised, or remedied, ensure that they are offset or compensated for where possible and appropriate; and*
 - (c) *take into account, as the case may be, the New Zealand Threat Classification System or any relevant international conservation agreement that may apply in respect of the protected wildlife that is to be covered by the approval.*

- 7 Generally speaking, a resource consent condition must also:⁸¹
- a. be for a resource management purpose, not an ulterior one;
 - b. fairly and reasonably relate to the development authorised by the resource consent or designation; and
 - c. not be so unreasonable that a reasonable planning authority, duly appreciating its statutory duties could not have approved it.
- 8 The underlying purpose of the conditions of a resource consent is to manage environmental effects by setting outcomes, requirements or limits to that activity, and how they are to be achieved.⁸²
- 9 Conditions must also be certain and enforceable.⁸³
- 10 A condition must also not delegate the making of any consenting or other arbitrary decision to any person, but may authorise a person to certify that a condition of consent has been met or complied with or otherwise settle a detail of that condition.⁸⁴ Such authorisation is subject to the following:
- a. The basis for any exercise of a power of certification must be clearly set out with the parameters for certification expressly stated in the relevant conditions.
 - b. This power of certification does not authorise the making of any waiver or sufferance or departure from a policy statement or plan except as expressly authorised under the Act (section 84 of the RMA).
 - c. This power of certification does not authorise any change or cancellation of a condition except as expressly authorised under the Act (section 127 of the RMA).

Principal Issues in Contention relating to Conditions

- 11 **[Placeholder – to complete section once comments received and considered on draft conditions]**

Findings on Principal Issues on Contention relating to Conditions

- 12 **[Placeholder – to complete section once comments received and considered on draft conditions]**

Conditions of RMA Approvals

- 13 [Refer to Appendix 2]

Conditions of Wildlife Act Approvals

- 14 [Refer to Appendix 3]

⁸¹ *Newbury District Council v Secretary of State for the Environment* [1980] 1 All ER 731 (HL), at 739.

⁸² *Summerset Village (Lower Hutt) Ltd v Hutt City Council* [2020] MZEnvC 31 at [156].

⁸³ *Bitumix Ltd v Mt Wellington Borough Council* [1979] 2 NZLR 57.

⁸⁴ *Turner v Allison* (1970) 4 NZTPA 104.

Conditions of Fisheries Act Approvals

15 [Refer to Appendix 4]

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PART L: OVERALL ASSESSMENT UNDER THE FTAA

Section 85 Assessment

16 As noted in Part C the Panel may decline an approval if, in complying with section 81(2), the Panel forms the view that there are 1 or more adverse impacts in relation to the approval sought; and that those adverse impacts are of sufficient significance so as to be out of proportion to the project's regional or national benefits. This must be after taking into account any conditions that may address those adverse impacts. A determination around the significance of an adverse impact cannot be made solely on the basis that the adverse impact is inconsistent with or contrary to a provision of a specified Act or any other document that a panel must take into account or otherwise consider in complying with section 81(2).

17 **[Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received]**

Overall Section 81 Assessment

18 **Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received.**

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**PART M: RECORD OF PANEL'S DECISION ON PRINCIPAL ISSUES IN
CONTENTION**

- 1 **[Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received]**

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PART N: RECORD OF PANEL'S DECISION ON APPROVALS

Decision on RMA Approvals

- 1 **[Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received]**

Decision on Wildlife Act Approvals

- 2 **[Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received]**

Decision on Fisheries Act Approvals

- 3 **[Placeholder – to complete section once comments received and considered on draft conditions and MPI recommendation received]**

Bal Matheson KC
(Chair)

Dr Ngaire Phillips
(Member)

Stephen Daysh
(Member)

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